S. HRG. 100-238

ESTABLISH A MOTOR CARRIER ADMINISTRATION AND TRUCK AND BUS SAFETY ACT OF 1987

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 747

TO ESTABLISH A MOTOR CARRIER ADMINISTRATION IN THE DEPARTMENT OF TRANSPORTATION, AND FOR OTHER PURPOSES

S. 861

TO REQUIRE CERTAIN ACTIONS BY THE SECRETARY OF TRANSPORTATION REGARDING CERTAIN DRIVERS OF MOTOR VEHICLES AND MOTOR CARRIERS

JULY 15, 1987

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CONTENTS

	Page
Opening statement by Senator Exon	1
Opening statement by Senator Breaux	2
Opening statement by Senator Kasten	3
Opening statement by Senator Adams	4
Opening statement by Senator Pressler	5
Opening statement by the Chairman	6
Text of bills:	
S. 747	7
S. 861	12

LIST OF WITNESSES

Archer, John, managing director, government affairs, American Automobile Assn.	83
Prepared statement	85
Donohue, Thomas J., president, American Trucking Associations, Inc	36
Prepared statement	41
Durham, R. V., director of safety and health, International Brotherhood of Teamsters	58
Prepared statement	60
Haseltine, Philip W., Assistant Secretary for Policy and International Affairs, DOT; accompanied by Jeffrey Miller, Deputy Administrator, NHTSA; and Richard P. Landis, Associate Administrtator for Motor Carriers, FHA	16
Prepared statement	32
Hitchcock, Cornish, co-chair, Americans for Safe and Competitive Trucking; accompanied by Russell C. Cherry, president, Economics and Management Consulting, and chief economist and Richard P. Schweitzer, legislative council, Private Truck Council of America	87
Prepared statement	90
O'Connell, K. Michael, counsel, Owner-Operators Independent Drivers Association of America, Inc	52
Prepared statement	54
O'Neill, Brian, president, Insurance Institute for Highway Safety	79
Prepared statement	81
Smith, Wayne J., executive director, United Bus Owners Assn	73
Prepared statement	74
Snyder, David F., counsel, American Insurance Assn.; accompanied by Phil Brown, assistnt director, Traveler's Insurance Cos	95
Prepared statement	97
Turner, Douglas, chairman, safety committee, American Bus Assn	68
Prepared statement	70

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Bartley, James E., executive vice president, National Industrial Transportation League, letter	117
Fentress, William L., president, Fentress, Inc., letter	116
Freightliner Corp., statement	122
Henderson, Richard D., executive vice president and Richard P. Schweitzer, legislative counsel, Private Truck Council of America, Inc., letter	118
Littlefield, Dr. Roy, executive director, Greater Washington/Maryland Service Station and Automotive Repair Assn., statement	107
Motor Vehicle Manufacturers Association of the United States, Inc., statement	107
National-American Wholesale Grocers' Assn., statement	108
National Association of Regulatory Utility Commissioners, statement	131
National Association of Wholesaler-Distributors, statement	110
Regular Common Carrier Conference, statement	113
Simmons, E. Joseph, Jr., on behalf of Cadec Systems, Inc., statement	124
Westhafer, Terry, president, American Retreaders' Assn., satatement	115

ESTABLISH A MOTOR CARRIER ADMINISTRATION AND TRUCK AND BUS SAFETY ACT OF 1987

WEDNESDAY, JULY 15, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:32 a.m., in room SR-253, Russell Senate Office Building, Hon. J. James Exon (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Robert Holleyman, staff counsel; Sheryl Webber Washington, professional staff member; and Alan Maness, minority staff counsel.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The subcommittee will please come to order. This morning the subcommittee is holding a hearing on two legislative proposals affecting the motor carrier industry. The two bills being addressed today are S. 747, which would establish a motor carrier administration within the Department of Transportation, and S. 861, the Truck and Bus Safety Act of 1987.

S. 747 is sponsored by the Chairman of the committee, Senator Hollings, who has introduced this measure to correct what he sees as a lack of a single organizational entity at DOT which can deal with the interests of the motor carrier industry and serve as a practical outlet for information to the public. I am a co-sponsor of this bill.

This legislation seeks to consolidate bus and truck functions now spread throughout the Department into a motor carrier administration. I am hopeful that this hearing will provide a record that can be used to facilitate more coordinated motor carrier policies, programs and safety, of course, as a priority.

The second bill on which testimony will be offered is S. 861 introduced by the ranking Republican on this committee, Senator Danforth, along with Senator Adams.

S. 861, the Truck and Bus Safety Act, addresses several safety related issues affecting the motor carrier transportation. Specifically, the bill would eliminate the commercial zone exemption from the Federal motor carrier safety regulations.

This bill would also require DOT to initiate rulemaking procedures on the need to adopt methods for improving truck safety, such as the use of vehicle on-board monitoring devices and the

need to adopt methods of improving braking performance standards for trucks and truck trailers.

I think there is general agreement that the commercial zone exemption which allows some unsafe drivers and vehicles to operate in these zones is without merit.

On the proposal for rulemaking on the need for on-board monitoring devices and improved braking performance standards, I am particularly interested in knowing more about efforts currently under way by DOT to address these issues and finding groups familiar with these devices. I know that there are costs associated with these devices, but the question is, will the costs outweigh the safety considerations.

Senator Breaux, do you wish to make a statement?

OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. Mr. Chairman and Members of the Subcommittee, today's hearing on establishment of a Motor Carrier Administration is most timely. The hearing affords the Subcommittee the opportunity for public discussion of the bill, which would consolidate motor carrier programs into a separate Motor Carrier Administration within the Department of Transportation. It would enable motor carrier programs to receive the top policy-level access, input, and attention which other modes now have and the nation's largest transportation mode needs and deserves. I thank you for holding the hearing.

Having sponsored the same legislation in the House during the 99th Congress, it is my privilege in the 100th Congress to join and work with our Committee Chairman, Senator Hollings, and Subcommittee Chairman, Senator Exon, and other Committee Members, in sponsoring S. 747. I am hopeful we will move forward soon on the bill to report it from Committee.

Establishing a Motor Carrier Administration should be a priority. The size of the motor carrier industry, its valuable and substantial contribution to the nation's transportation system, and its role as the largest mode of transportation merit Congress doing so.

Established and operational today are the Maritime Administration, the Federal Aviation Administration, the Federal Railroad Administration, and the Urban Mass Transit Administration, Each of these administrations is within the Department of Transportation. Each specializes in administering the programs of the particular transportation mode.

Using the same rationale, our motor carrier industry, that is, the thousands of for-hire trucks and buses which serve the nation, should have a separate administration at the Department. S. 747 would establish that administration for the industry.

The bill intends to consolidate motor carrier programs into a separate administration to coordinate research, planning and programming, to develop and integrate policies and programs, and to increase productivity and efficiency. It also intends to eliminate program duplication, to give highest priority to safety, to improve access to and interaction between government and industry, and to serve the public more effectively.

Programs affected by establishment of a separate Motor Carrier Administration include safety, productivity, vehicle size and weights, environmental protection, hazardous materials transportation and taxation.

The bill calls for the President to appoint an Administrator, with the Senate's advice and consent. The Administrator would report directly to the Secretary of Transportation.

Duties of the Administrator would include safety programs and other functions and powers relating to motor carriers which the Secretary would prescribe, with the exception of motor vehicle safety standards involved with the manufacture of trucks and buses. That program would remain where it is currently, at the National Highway Traffic Safety Administation.

The Secretary would appoint a Deputy Administrator. The appointment would require the President's approval. Duties of the Deputy would be set by the Administrator.

Finally, the bill calls for the Secretary of Transportation, in consultation with the Chairman of the ICC, to review and report to Congress within six months of enactment on those ICC motor carrier activities which could be performed more efficiently by the Motor Carrier Administration. Recommendations on how to achieve these program efficiencies are also called for, together with the review.

Mr. Chairman, motor carriers are the only mode of transportation which are not represented by a separate administration within the Department of Transportation. By virtue of the industry's size and services and its role as the largest mode of transportation, there should be established a Motor Carrier Administration.

Support for the legislation exists amongst 19 different industry groups. These include The American Trucking Associations, the Trucking Industry Alliance, the Owner-Operator Independent Drivers' Association of America, Inc., the American Bus Association, the United Bus Owners of America, the National Safety Council, the Food Marketing Institute, and the National Council of Farmer Cooperatives.

It is important to note that 12 Senators on the Committee, representing over half of the Committee, have cosponsored the bill. Altogether, 25 Senators, one-fourth of the Senate, have cosponsored it. Furthermore, the bill has bipartisan support.

Mr. Chairman, this concludes my written statement. Thank you for the opportunity to testify in support of S. 747.

Senator EXON. Thank you Senator.

Senator Kasten, would you like to make a statement?

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. I have cosponsored both of these bills and I look foward to developing the record on these proposals.

I support the Motor Carrier Administration bill because it would recognize the essential role of trucks and buses in our national transportation system. It would provide a single organizational entity in the federal government which can coordinate efforts to enhance motor carrier safety and productivity.

I have also cosponsored the Truck and Bus Safety Act of 1987, which would address a number of motor carrier safety problems. It would eliminate the commercial zone exemptions from federal safety regulations. Anyone who watches local television knows that we should not exempt truck and bus operations in areas like the Washington, D.C. beltway from safety requirements. If anything, these congested beltway areas need stricter safety enforcement than rural roads. The Truck and Bus Safety Act would also seek improved truck braking performance—an area that a recent DOT study said we should give the highest priority. Finally, the bill would require consideration of alternatives to the fraud ridden log book system for monitoring drivers hours.

Mr. Chairman, I look forward to the testimony of today's witnesses and to working with you to refuse these legislative proposals.

Senator EXON. Thank you.

Senator Adams.

OPENING STATEMENT BY SENATOR ADAMS

Senator ADAMS. Mr. Chairman, thank you for holding these hearings on the important topic of truck and bus safety. Over the past four years, Congress has passed several pieces of legislation improving safety standards for trucks and buses. Most recently, Congress passed the Commercial Motor Vehicle Safety Act of 1986, which among other things prohibits drivers from holding multiple state drivers licenses. Our work is not done, however. Every year over 5,000 people die in truck related accidents, and every year this number increases. More than a million heavy trucks travel U.S. highways and one-third of all tractor trailers will be involved in an accident this year, compared with one of every 13 cars.

Today, we will hear from a broad range of truck and bus interests, including representatives of truck and bus operators, labor, and organizations concerned with highway safety, on a bill Senator Danforth and I introduced—the Truck and Bus Safety Act of 1987. This bill, S. 861, contains three principal provisions.

First, it would require the Secretary of Transportation to initiate rulemaking proceedings on the need to improve truck braking performance. The Secretary would be directed to investigate technologies now available for anti-lock braking systems, load proportioning and faster brake timing. Ten years ago, we tried to require America's truck owners to install antilock brakes, then a relatively untried technology. Unfortunately, this effort failed. In the meantime, other countries, notably the Common Market countries, have pressed ahead and refined antilock systems and other advanced brake technology for heavy trucks. I am hopeful that this hearing will provide us with useful information on the European experience and the improvements that have been made to these systems.

Second, the bill directs the Secretary of Transportation to investigate the possibility of requiring installation of onboard devises to record driving time, speed and other information. Under current federal regulations, drivers are limited in the amount of hours they can drive to 10 hours at a stretch and 60 hours in any week. Unfortunately, the financial pressures that truck owners are under, in

many ways a result of the economic deregulation of the trucking industry, often leads to violations of the hours of service regulation. Non-stop stints of 16 hours at the wheel are not uncommon. Driver fatigue has been found to be a major factor in over 40% of all truck accidents. To address the fatique problem, S. 861 would require DOT to consider using automatic on-board monitors to replace the log book system that we know is riddled with fraud and impossible to enforce.

Third, the bill would eliminate the so-called "commercial zone exemption." Certainly it makes little sense to regulate trucks on the highway, but not when they operate in the most dense traffic in our nation's metropolitan areas.

I am aware that the Department of Transportation as recently as Monday published an Advanced Notice of Proposed Rulemaking on on-board monitors. The Department also issued a Notice of Proposed Rulemaking on elimination of the commercial zone exemption. I welcome these developments and look forward to hearing a description of these efforts from the Departments witness today. These actions do not obviate the need for legislation, however; they highlight it. Legislation is needed not only to focus attention on these significant issues, but also to spur the responsible executive agencies to take the actions necessary to save lives in a timely fashion.

Let me make one last comment. I recognize that truck safety issues are complex, especially when one considers changes in safety equipment. This legislation does not require the immediate implementation of mandatory equipment standards. Rather, it requires that DOT rulemaking begin immediately, and continue with speed and deliberation. We don't want to set impossible deadlines, but we do want concrete results.

Senator EXON. Thank you, Senator.

Senator Pressler, do you have a statement?

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. Mr. Chairman, let me first commend you for holding today's hearing. I am pleased that we will be covering both the Motor Carrier Administration legislation and the Truck and Bus Safety Act of 1987. I hope that we will all learn more about the motor carrier industry throughout this hearing and further understand and appreciate its importance.

As an original cosponsor of S. 747, I want to express my strong support for the creation of a Motor Carrier Administration within the Department of Transportation. Because the motor carrier industry plays such an important role in our overall transportation system, it deserves to have the representation that other modes of transportation currently receive. In addition, the establishment of a Motor Carrier Administration would greatly benefit the industry and our national economy. It would increase efficiency, enhance safety concerns, and improve coordination of the industry's activities all around.

The Truck and Bus Safety Act of 1987 addresses several key areas relating to safety. I am particularly interested in the provision which eliminates the commercial zone exemptions, and will be

studying it carefully. Presently, DOT exempts commercial drivers and equipment which operate within specific populated areas designated as commercial zones from Federal safety regulations. These populated areas certainly need safety regulations as much as the rural areas need them, possibly even more. We must look closely at the safety issue here.

Mr. Chairman, I want to be brief, but do want to congratulate you once again for holding this hearing. I hope that we in Congress will better understand what problems currently exist within the motor carrier industry and determine how to best remedy them.

Senator EXON. Thank you Senator Pressler.

The Chairman of the Committee, Senator Hollings, has hoped to be here to take part in this hearing, but he is tied up on the very important matter of the debt ceiling extension on the budget. So Senator Hollings' statement is entered in the record at this time, without objection.

[The statement and bills follow:]

OPENING STATEMENT BY THE CHAIRMAN

This morning the Surface Transportation Subcommittee has scheduled a hearing on two important pieces of legislation, S. 747 and S. 861. I say these are important not only because I am the sponsor of S. 747, a bill to create a Motor Carrier Administration within the Department of Transportation, but also because the effort to improve truck and bus safety is a primary goal of the Commerce Committee. Each of these two bills seek, in various respects, to promote this purpose.

S. 747 would promote safety by elevating within the Department of Transportation the attention given to truck and bus issues. Safety and economic concerns raised by industry, workers, and the public at large will receive the careful and detailed attention to which they are entitled in the new Motor Carrier Administration. This seems only appropriate given that the motor carrier industry is the largest and most pervasive of all modes of transportation in the United States.

The motor carrier industry impacts every individual and community in the nation. It is time that we made sure that all concerns related to this industry are given the high level of attention accorded all other modes of transportation. I am confident this can be done in a means that would increase efficiency and result in a minimum of cost within DOT.

That this proposal has been well received by members of this Committee is evident from the fact that S. 747 has been cosponsored by a majority of the members of the Committee. Included in this number is Senator Breaux, who served as the sponsor of a similar measure when he served as a member of the House of Representatives, and who has joined with me in introducing S. 747.

We are also today considering S. 861, the Truck and Bus Safety Act of 1987. This measure was introduced by my colleagues, Senators Danforth and Adams. In large part, this bill seeks to eliminate the commercial zone exemption, which has been pinpointed by some as a loophole in our Federal safety laws. It is therefore eminently appropriate that we examine this issue carefully and I commend the sponsors of this legislation for their interest in this matter. I will also be interested in the testimony regarding the proposals in S. 861 related to improved braking and onboard recorders. I am also eager to learn more about DOT's efforts in these areas and in regard to the commercial zone exemption.

It is my hope that this hearing will provide the Committee with a full record on these two important legislative initiatives.

100TH CONGRESS
1ST SESSION

S. 747

To establish a motor carrier administration in the Department of Transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 1987

Mr. HOLLINGS (for himself, Mr. BREAUX, Mr. INOUYE, Mr. FORD, Mr. RIEGLE, Mr. EXON, Mr. GORE, Mr. ROCKEFELLER, Mr. PRESSLER, Mr. KASTEN, Mr. TRIBLE, Mr. NUNN, Mr. PRYOR, Mr. BUMPERS, Mr. HEFLIN, Mr. BINGAMAN, Mr. DECONCINI, Mr. SASSER, and Mr. NICKLES) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To establish a motor carrier administration in the Department of Transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) within the Federal Government there is, for each mode of transportation (other than motor carrier), one organizational entity responsible for coordinating activities to ensure the safe and efficient operation of transportation by such mode;

(2) such coordination for motor carrier transportation has been lacking with regard to advising Congress, conducting research, planning and programming, and developing and integrating policies and programs within our total national transportation network;

(3) the establishment of a Motor Carrier Administration within the Department of Transportation will increase productivity and efficiency, and will provide cost savings resulting from the elimination of duplicative activities within the Federal Government;

(4) motor carrier safety is an area of increasing public concern, and the establishment of a Motor Carrier Administration would reflect the intent of Congress to give the highest priority to safety on the Nation's highways; and

(5) the Motor Carrier Administration will facilitate improved access and interaction among the Federal, State, and local governmental agencies, motor carriers, shippers, and the traveling public, thereby furthering the public interest.

SEC. 2. (a) Section 104 of title 49, United States Code, is amended—

(1) in subsection (c), by (A) inserting "and" immediately after the semicolon at the end of paragraph (1),

(B) striking paragraph (2), and (C) redesignating paragraph (3) as paragraph (2); and

(2) by striking subsection (d).

(b)(1) Chapter 1 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 111. Motor Carrier Administration

"(a) The Motor Carrier Administration is an administration in the Department of Transportation.

"(b)(1) The head of the Administration is an Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

"(2) The Administration has a Deputy Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(c) The Administrator shall carry out—

"(1) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 31 of this title; and

"(2) other functions, powers, and duties of the Secretary relating to motor carriers prescribed by the Secretary, except for the authority to promulgate motor vehicle safety standards applicable to the manu-

facture of trucks and buses, which authority shall remain in the National Highway Traffic Safety Administration.

"(d) A duty or power specified in subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is adminstratively final.".

(2) The analysis for chapter 1 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following:

"111. Motor Carrier Administrator.".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator, Motor Carrier Administration, Department of Transportation.".

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Administrator, Motor Carrier Administration, Department of Transportation.".

SEC. 3. Within six months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Chairman of the Interstate Commerce Commission, shall—

(1) review all activities of the Interstate Commerce Commission which affect transportation by motor carriers, to determine which activities could be more efficiently performed by the Motor Carrier Administration; and

(2) transmit to the Congress the results of the review conducted under paragraph (1) of this section, together with such recommendations for legislation or other action necessary to achieve such efficiencies.

○

100TH CONGRESS
1ST SESSION

S. 861

To require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers.

IN THE SENATE OF THE UNITED STATES

MARCH 26, (legislative day, MARCH 24), 1987

Mr. DANFORTH (for himself and Mr. ADAMS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truck and Bus Safety Act of 1987".

SEC. 2. As used in this Act, the term—

(1) "driver" has the meaning given to such term in section 390.11 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act; and

(2) "motor carrier" has the meaning given to such term in section 390.15 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 3. (a) Except as provided in subsection (b) of this section, not later than one year after the date of enactment of this Act, the Secretary of Transportation shall, by regulation, amend the regulations contained in parts 390, 391, 392, 393, and 396 of title 49, Code of Federal Regulations, to include within such regulations those motor carriers and drivers operating wholly within a municipality or the commercial zone of a municipality (as defined in part 1048 of title 49, Code of Federal Regulations).

(b) The Secretary shall not apply the provisions of section 391.41 (other than the provisions of section 391.41(b)(12) and (13)) of title 49, Code of Federal Regulations, to any driver operating wholly within a municipality or the commercial zone of a municipality—

(1) who drove exclusively within such municipality or zone for a period of one year before the date of enactment of this Act,

(2) who was not subject to the provisions of section 391.41 (a) and (b) (1) through (11) of title 49, Code of Federal Regulations, during such period,

(3) to whom a license to drive has been issued on or before the date of enactment of this Act, and

(4) who has not been found to have violated a State or local law relating to motor vehicle traffic control (other than a parking violation) in the three-year period ending on the date of enactment of this Act,

until the date on which such person is found to have violated such a State or local law, or such person is disqualified from driving a motor vehicle pursuant to the provisions of title 49, Code of Federal Regulations, for a condition or occurrence arising after the date of enactment of this Act, whichever is earlier.

SEC. 4. (a) Not later than three months after the date of enactment of this Act, the Secretary shall initiate rulemaking proceedings on the need to adopt methods for improving safety, such as vehicle onboard monitoring devices in trucks to record speed, driving time and other information. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding such devices shall ensure that such devices are not used for the purpose of harassment of any driver, but such devices may be used for the purposes of monitoring the productivity of any driver.

(b) Not later than three months after the date of enactment of this Act, the Secretary shall initiate rulemaking proceedings on the need to adopt methods for improving braking

performance standards for trucks and truck trailers manufactured after July 1, 1987, including faster brake timing, anti-lock systems and load proportioning valves. Any rule which the Secretary determines to promulgate as a result of such proceedings regarding improved braking performance shall take into account the necessity for effective enforcement of such a rule.

(c) The Secretary shall conclude the proceedings required by this section within nine months after the date of enactment of this Act.

○

Senator EXON. So, with that we will begin the witness list. I would recognize that all of you are very busy individuals. I would also recognize that with activities on the floor today and off the floor in our attempt to try and clear up several matters, it is a particularly busy day for the Chairman and for all the members of this subcommittee. So, because of the press of affairs, I would hope that we could move this hearing along as expeditiously as possible.

And it might well be, I will advise the witnesses in advance, that the Chairman and members of this committee may have some questions that we might, in the interest of saving time, ask for you to respond for the record.

So, with that I will call the first witness this morning, and that is the Honorable Philip Haseltine, the Deputy Assistant Secretary for Policy and International Affairs, the Department of Transportation. And Mr. Haseltine is accompanied by Jeffrey Miller, Deputy Administrator, National Highway Traffic Safety Administration, and Richard P. Landis, Associate Administrator for Motor Carriers, Federal Highway Administration of Washington, D.C.

Gentlemen, we welcome you. Thank you for coming this morning. And we will call first on Mr. Haseltine for his testimony. Mr. Haseltine?

STATEMENT OF PHILIP W. HASELTINE, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JEFFREY MILLER, DEPUTY ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; AND RICHARD P. LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION

Mr. HASELTINE. Thank you very much, Mr. Chairman. I do have a longer version of the testimony, which I have submitted for the record. Let me in the interest of time and your schedule read a briefer version.

Senator EXON. Without objection, the full testimony prepared by Mr. Haseltine is accepted. And to save time, at this time without objection I will agree to accept any and all subsequent testimony that will come before the subcommittee this morning in a similar fashion.

Mr. HASELTINE. Thank you, Mr. Chairman.

We are pleased to have the opportunity to provide our views on the two proposed bills you are considering today. We appreciate our common objective with the Congress, and that objective is to improve the safety of our Nation's highways for all users and to be responsive to ever-changing conditions affecting the truck and bus industries.

It is unfortunate that today is one of those days, Mr. Chairman, when the Department and the Congress perhaps disagree about how best to achieve our shared objectives. We believe that S. 747 and S. 861 are unnecessary and will not significantly enhance the Department's ability to manage motor carrier safety programs.

We feel that creating a separate modal administration, as would be done in S. 747, would be an expensive and inefficient means of addressing the Department's motor carrier responsibilities. It would result in three agencies within DOT dealing with motor carrier issues: the new Motor Carrier Administration; NHTSA continuing to establish vehicle manufacturing standards; and the Federal Highway Administration continuing to establish cost allocation, user fees and highway operating policies. This would, we believe, hinder the coordinating, planning, and implementation of policies necessary for motor carrier issues, as well as require additional staff and overhead.

We feel the current organizational arrangement is responsive to the states and the needs in the industry and provides the appropriate perspective for the Secretary to address the concerns of the motor carrier industry, allowing their views to be balanced within the broader context of all highway users.

The FHWA Associate Administrator for Motor Carriers, here with me today, serves as the primary focal point within DOT for the industry—proposing revised legislation and developing rules, policies, and procedures to carry out the Department's responsibilities for motor carrier transportation.

Turning quickly to S. 861, the proposed Truck and Bus Safety Act of 1987, we fully agree, Mr. Chairman, with the objectives of this bill. Safety is the top priority within our Department, and we have been working diligently to reduce deaths, injuries, and prop-

erty damage from transportation crashes. We are gratified to see that the fatality rate for crashes involving combination trucks—in deaths per 100 million vehicle miles—is lower than it was in 1981 (from 6.5 to 5.84).

And I would also add, Mr. Chairman, that preliminary data out of our Fatal Accident Reporting System for 1986 shows, indeed, that the total gross number of fatalities was down in 1986 from 1985 for large trucks and buses. We believe that, too, is a cause for some optimism, but clearly, we have further progress to make.

Nevertheless, let me turn to the three main provisions of the bill.

With respect to the commercial zone exemption, I want to emphasize that we favor eliminating the exemption from safety regulations. (However, we strongly favor and intend that exemptions from ICC economic regulation in commercial zones continue.) In response to the comments we received on our earlier ANPRM, Mr. Chairman, we published a notice of proposed rulemaking to eliminate the commercial zone safety exemptions. We did that just two days ago.

The 12 states whose regulations are compatible with Federal safety regulations would not be affected by our proposed elimination of the commercial zone exemption.

In addition, our proposed rule would grandfather selected drivers for a two year period—such as drivers who are under age or who would not be medically certified under certain Federal safety regulations (except those who are drug or alcohol dependent). We would not grandfather motor carriers or drivers who transport hazardous materials. They would be subject to the safety regulations immediately. Our approach, we believe, thus enforces safety while recognizing that we are affecting individuals' livelihood.

We strongly agree with the members of Congress and this committee that the commercial zone safety exemption has outlived its intended benefit. We believe it can be repealed administratively. It does not require statutory action, and we fully expect to issue a final rule within the time frame proposed in the bill.

I would like next to briefly address on-board monitoring devices. Here is a case where Federal regulations should be responsive to changes in technology. The requirement for a driver to use a daily log book to record work time dates back to 1940. While the format has changed over the years, the principle and the purpose of the log is the same. The driver writes the time of starting and stopping work, and enforcement officers use the log largely to determine that a person is not driving excessively, to minimize the probability of fatigue-related accidents.

The issue before us is how well on-board recorders might serve the purpose of the driver's log and contribute to the safe operation of large trucks. FHWA's 1978 research on the tachograph showed that that device was not tamper-resistant, provided just a single paper record, and it could not record driver activities when the vehicle was stopped.

In 1985, however, managers of Frito-Lay, Incorporated had begun to realize the potential for improving productivity through information recorded by improved on-board computers, including hours of service. These devices showed promise of being driver-interactive

and tamper-resistant. We issued a waiver for Frito-Lay to use such a device in lieu of a log book.

As a result of increasing interest and technical advances, the FHWA issued an advanced notice of proposed rulemaking on July 13 of this year to request comments on the use of on-board computers in trucks, the extent to which they are tamper-proof, whether they have the capability of providing information to enforcement officers, whether they are practical for small carriers, and their direct safety benefits. On the same day, we also issued waivers for six additional fleets to test these devices and use them in lieu of driver logs.

We recognize the potential usefulness of on-board computers and similar devices to meet industry needs and satisfy the hours of service requirements. We are not ready, however, to mandate them for all drivers and carriers. The availability of these systems in the U.S. is limited, with each device running about $1,000 per vehicle. There is obviously some difference from model to model.

We believe further practical experience can help address many of the complex technical, cost, and safety ramifications. We will work aggressively towards a final rule on the use of on-board computers.

Senator EXON. Go ahead, Mr. Haseltine.

Mr. HASELTINE. Thank you, sir.

Lastly, on the subject of improved braking technology for trucks, we believe that the necessary braking technology may now exist, but we oppose the regulatory approach mandated in the bill.

NHTSA issued an NPRM in mid-1985 to improve brake timing on trucks and trailers. They are preparing a final rule, and we expect that to be issued this fall. If enacted, S. 861, as we understand it, would effectively preclude the issuance of this forthcoming final rule on brake timing because it would shift the focus to faster brake timing rather than that effective timing.

The concept of effective timing relates to compatibility between the brake systems of the tractor and trailer. When lock-up occurs and the tire begins to skid, it not only produces lower stopping friction, but the wheel looses its ability to provide directional stability to the vehicle. Brake lock-up on the drive wheels of a combination vehicle often means that it will swing around and "jackknife". The antilock device is intended to keep the wheels rolling under strong braking action, just short of the lock-up and skid point.

We believe any braking system considered for rulemaking must have certain criteria and certain aspects. First, it must give optimal braking not only on panic stops, but in normal controlled slowing and stopping. Secondly, it must operate with a wide variation of vehicle weights, operate under all road conditions—firm, dry, wet or icy—allow for a variety of tractor-trailer configurations, be tough, reliable, relatively easy to maintain, have fail-safe characteristics, be testable and inspectable for the operator, as well as for highway safety inspectors, and lastly, it must be affordable.

New antilock systems developed in Europe have begun to be used within the last two or three years. American original equipment manufacturers and fleet operators are now using antilocks in a few American fleets on a trial basis, and American brake manufacturers have prototype antilock systems undergoing fleet testing.

The Department began test track evaluations last year at our Ohio test facility. We are reviewing the initial results and intend to expand and continue this activity.

In the 1978 PACCAR decision, the U.S. Court of Appeals invalidated the portion of NHTSA's air brake standard, which necessitated the use of antilock systems, in large part because we had not collected enough data to demonstrate the safety and the reliability of antilock systems on vehicles in use.

Now that there are production antilock systems available, we can evaluate the reliability of these systems. We are beginning full-scale tests on about 200 vehicles for two years under normal commercial use. We expect to have preliminary results from the field by 1990. This time frame, we believe, will be absolutely necessary to examine the reliability issues thoroughly, so that any rulemaking we undertake will avoid the results of the PACCAR case which stemmed from the lack of earlier data.

The third truck braking device mentioned in S. 861 is the load proportioning valve. Although these valves have been used in Europe, substantial differences between European and American trucks, particularly in the suspension systems, raise questions about the relevance of European experience to our vehicles. At a minimum, we would have to conduct full field tests on American vehicles under conditions typical of those on American highways, a test impossible to conduct within the time frame constraints imposed in the bill.

As we discussed in our truck safety report, we believe that antilock systems offer the highest near term payoff for our research efforts and we are concentrating in that area.

In summary, Mr. Chairman, we are already well along in doing the things that S. 861 would require of us. We are working on eliminating the commercial zone exemption. We have begun rulemaking on the desirability of on-board recorders. We are well into the testing program that can lead to improved braking standards using antilocks.

Again, the time frames in the bill for rulemaking, we believe, are unrealistic in some cases, particularly with respect to antilocks, and perhaps are not only impossible to achieve, but counterproductive.

Mr. Chairman, that concludes my formal summary. We would be pleased to answer any questions you have.

Senator EXON. Mr. Haseltine, thank you very much. Mr. Landis or Mr. Miller, do you have anything that you care to add?

Mr. LANDIS. No further statements.

Mr. MILLER. No. I believe Mr. Haseltine has covered it well.

Senator EXON. The Chair would recognize Senator Danforth at this time for any opening statement or comments that he might have.

Senator DANFORTH. I have no opening statement, Mr. Chairman. I do have questions at the appropriate time.

Senator EXON. Well, why don't you proceed at this time?

Senator DANFORTH. Okay.

Mr. Haseltine, you are here representing the Department of Transportation?

Mr. HASELTINE. Yes, sir.

Senator DANFORTH. Does the Department of Transportation disagree or agree with eliminating commercial zone exemptions?

Mr. HASELTINE. We agree wholeheartedly, Mr. Chairman—Senator. Excuse me.

Senator DANFORTH. It sounded good a year or so ago.

It still sounds good.

Mr. HASELTINE. Mr. Chairman, my apologies.

Senator DANFORTH. Does the Department agree or disagree with on-board recorders?

Senator EXON. If I might interrupt, does the Department of Transportation agree or disagree with the change in control of the United States Senate?

Senator DANFORTH. I will be interested to hear that.

Does the Department agree or disagree with a requirement that DOT initiate and complete within nine months a rulemaking on on-board recording devices?

Mr. HASELTINE. Senator, we agree wholeheartedly, and as you know, sir, we initiated a rulemaking earlier this week. But our experience with the current level technology computers as on-board monitoring devices is extremely limited. We believe that we could not do a good job of getting a final rule out within the nine months as is suggested in the bill.

Senator DANFORTH. But do you agree with the need for on-board recorders?

Mr. HASELTINE. I think it is premature, in our minds, to decide that it is necessary to mandate them. But we have considerable thought that on-board monitoring devices may very well be an excellent device to replace driver logs.

Senator DANFORTH. In other words, you haven't made up your mind. You don't know one way or another.

Mr. HASELTINE. We have not made up our mind with respect to mandating them.

Senator DANFORTH. You have issued a so-called advanced notice of rulemaking, which is the step before a proposed rulemaking, which is the step before a rulemaking. Right?

Mr. HASELTINE. That's correct, sir.

Senator DANFORTH. Then you haven't made up your mind one way or another.

Mr. HASELTINE. No, sir.

Senator DANFORTH. This could take years, could it not?

Mr. HASELTINE. We would not expect it to take——

Senator DANFORTH. More than what? Ten years?

Mr. HASELTINE. No, I think we could——

Senator DANFORTH. Twenty?

Mr. HASELTINE. I would think within two years we would have——

Senator DANFORTH. Why do you think within two years, sir? I see nothing in the record of the Department of Transportation to indicate that any rulemaking is done in two years. Maybe that is an exaggeration. But in the safety area these things drag on forever, don't they?

Mr. HASELTINE. Some rules have dragged on for some time. Some rules have been——

Senator DANFORTH. How about the commercial zone exemption? Do you know when the advanced notice of rulemaking was issued on commercial zone exemptions?

Mr. HASELTINE. In 1985 I believe.

Senator DANFORTH. When in 1985?

Mr. HASELTINE. January.

Senator DANFORTH. January of 1985. What is the date today?

Mr. HASELTINE. This is July 1987.

Senator DANFORTH. And you have made the monumental step forward to move from an advanced notice of rulemaking to a proposed rulemaking in a mere two and a half years.

Mr. HASELTINE. That is correct.

Senator DANFORTH. And with respect to on-board recorders, this is just an advanced notice of rulemaking. So, it is fair to say that it could very well be years down the road before the Department of Transportation gets its act together on on-board recorders, could it not?

Mr. HASELTINE. With respect to on-board recorders, remember, Senator, we are talking about a new technology. We determined some years ago that the old tachographs that have been utilized in Europe for some time, in our estimation, did not provide the kinds of benefits that would be appropriate. They could be easily tampered with, and we took positive action not to require those.

We have only had on-board computers at affordable costs available in the very short time frame.

Senator DANFORTH. I'm going to tell you my reaction, Mr. Haseltine. My reaction is that the Department of Transportation sometimes acts—sometimes acts—when Congress is legislating—sometimes—sometimes acts in response to legislation. But if we don't legislate, if we don't move on legislation, nothing happens. And often times when we do pass bills, nothing happens.

For example, bumper standards. Whatever happened to the rating system on bumpers promised in 1982?

Mr. HASELTINE. I'll defer to my colleague from NHTSA.

Mr. MILLER. Senator, when we revised the bumper standard in 1983, we promised both to evaluate the new standard and also to explore development of a new rating system. The evaluation which necessarily awaited production of post-standard cars was completed and published earlier this year. We developed an experimental rating system on which we held a public hearing last fall.

It was the consensus of all parties who participated in that conference, after we had compared our rating system with insurance data, that that rating system did not provide actual, real-world benefits to consumers. And therefore, we did not proceed with that rating system.

Senator DANFORTH. So you just forgot about it.

Mr. MILLER. No, Senator. We gave it our best effort, and it was the consensus of all parties that that effort simply did not provide actual benefits to consumers.

Senator DANFORTH. Well, how about light trucks? How about light truck standards? Any action on that?

Mr. MILLER. Senator, we recently provided a report to the appropriations committees on light trucks. In response to a petition from the Insurance Institute for Highway Safety, we granted a petition

and will commence rulemaking on vehicle classifications. As we indicated in our report to the appropriations committees, we will be evaluating individual standards——

Senator DANFORTH. You guys evaluate everything forever. In the 1984 Motor Carrier Safety Act we provided for safety fitness requirements, annual inspection requirements—nothing done, correct, with respect to trucks.

Mr. MILLER. That is a Federal Highway Administration issue. I would defer to Mr. Landis.

Mr. HASELTINE. We have with us, Mr. Chairman, I believe a status of all the rulemakings required under the——

Senator DANFORTH. I'm going to tell you. I am not going to belabor this any further.

But side impact protection, just as the last example. Side impact protection. We are back to cars now. DOT has been discussing and researching this for about 10 years. And the Department of Transportation comes here yet again with what I would characterize as "the speech." I believe that the Department of Transportation has a canned speech which always says the same thing. Congress shouldn't act. We have got a rulemaking going or a proposed rulemaking going or an advanced notice of rulemaking going. Don't worry about it. We have got this thing under control. You make that kind of announcement after Congress starts moving on legislation, and nothing happens. And sometimes after we legislate, nothing happens.

Now you come here, as I understand it, with the same speech, "the speech." Is it called "the speech" at the Department of Transportation?

I mean, seriously. Is this what you call it? It may be laminated somewhere so that people can carry it from hearing to hearing.

Mr. HASELTINE. No, sir, it is not.

Senator DANFORTH. It's not laminated. It would save typing costs if you would laminate it.

Well, my hope, Mr. Chairman, is that we would proceed with this legislation. I believe that with truck braking performance, antilock brakes are now in use in Europe, aren't they?

Mr. HASELTINE. To a very limited extent among combination vehicles, they are in use. They are in use in some numbers on intercity buses. They are in use in Great Britain in some numbers on trailers. They are not required anyplace in Europe, with the exception of Austria, for those combination vehicles hauling hazardous materials.

And the systems that are in use in Europe are just coming into this country. There are about a handful of systems that have been used in this country. There are no U.S. manufacturers that produce these systems.

The trucking industry in Europe is far different than it is in the United States. The whole complexion of the industry is different. The vehicles are different. The uses are different. There a great number of different types of antilock braking systems being developed: those that are wheel-by-wheel, those that are axle-by-axle, those that are tandem. The price is different. These are performance versus complexity tradeoffs.

We lost a court suit on this issue once because we couldn't ascertain the reliability of antilock brake systems, number one, and secondly, because we couldn't put in place for manufacturers any testing criteria that they could rely on.

We have an aggressive testing program ongoing within NHTSA right now with the two European models, one of which is currently on the American market. The other model will be on the market shortly. We will soon expand that to the only prototype made by a U.S. manufacturer that is announced to be offered some years down the road. But we have absolutely no experience in this country with the new technology that has come along since the 121 standard was overturned in 1978.

The industry was not making these. They have only come onto the marketplace within Europe in any numbers within the last two or three years. And as soon as that happened, we, along with U.S. manufacturers, began to look back into them here.

But if we go ahead with antilock brake requirements and try and put forth a final rule within nine months, we will virtually guarantee, in our estimation, that we will have a repeat of the PACCAR case, number one, and number two, that if it is overturned in the courts again, then we will lose the opportunity to advance that technology in this country for a number of years. And I would respectfully suggest, Senator, that would be a very bad idea, and it would be very bad for safety.

Senator DANFORTH. Mr. Chairman, you have been most considerate with your time.

And I would renew my comment that if Congress does not act and does not push the Department of Transportation, virtually pick them up by the back of the neck and the seat of the pants and shove them in the direction of this legislation, then absolutely nothing is going to be done.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Danforth.

Yes, Mr. Landis.

Mr. LANDIS. I would like to make a comment.

Senator EXON. I am going to move this along very rapidly, but go ahead please.

Mr. LANDIS. Very quickly.

I was here last December, as the Senator well knows. And we discussed the same issues. I want to assure the Senator that I have a staff that has been doing everything within its power to meet the requirements of the regulations that were set in the 1984 act and at the same time meet the very ambitious requirements that were placed upon us in the Commercial Motor Vehicle Safety Act of 1986 and some other very tightly scheduled activities. I think we have to recognize that all of those are being worked on at the same time.

As it stands on the 1984 act, we have just closed the comment periods, after extensive public comment—and I think that public comment is a very important ingredient because it leads to better public policy. There are two issues that have extensive comments and will require a great deal of work. It is not something that you can simply just pass out without extensive and deliberate consideration of the issues. The inspection and maintenance issue is one of

them. Parts and accessories is another—a hundred plus comments to those two dockets have been received, very extensive comments in some cases.

I just cannot leave the impression that nothing is occurring. Rules are being completed. The work is being done, and it does take time. But it is ongoing. And I don't want the impression to be left that it is not occurring.

Senator EXON. I thank the Senator from Missouri. And after his line of questioning, I can better understand why Mr. Haseltine and the members of the Department were not necessarily discouraged by the people's wisdom in the outcome of the last election. And I hope that will be duly noted by Secretary Dole.

The Chair recognizes the Senator from Louisiana.

Senator BREAUX. Thank you, Mr. Chairman.

I was just kind of wondering whether you fellows feel like you need some Democratic help about now.

Mr. HASELTINE. Well, Senator, I think we could use all the help we could get right about now. My lack of response to the Chairman was not that we were pleased with the outcome of the election, but being covered by the Hatch Act, I certainly didn't want to get involved in partisan political issues, Mr. Chairman.

Senator EXON. Well said, Mr. Haseltine.

Senator BREAUX. Let me just say that with regard to legislating regulations or mandating that regulations be pursued, it is something that makes me very uncomfortable. I mean, for me as a Member of Congress to come in and say we shall have antilock devices or we shall have recorders on vehicles is something that I honestly am not qualified to do.

I think that our role from the big picture is to say that the government officials and the experts within the various departments should come up with the methodologies to create safe conditions. What devices are needed to do that is a process that I would hope that Congress would not have to get into. And I can imagine us legislating specifically the type of braking systems on trucks, or the type of recording devices on trucks, or all the various technical things that honestly I don't think we have the expertise to do. So, that is my general philosophy, number one.

But at the same time I appreciate what Senator Danforth is bringing out, that if the body in the government is not doing it anytime they fashion, darn it, somebody is going to have to do it. And it is the sense of frustration that brings about the legislation because we see that it has not been done in a timely fashion. And I am not going to go over this again because I think that you know the feeling of the committee, and I just wanted to let you know where I was coming from with it.

Mr. Landis, I want to make you an administrator. You don't like that.

Mr. LANDIS. Not at the moment. Right now I have as much work as I can handle, as you have just heard.

Senator BREAUX. Let me ask some questions just for the record.

Within the Department of Transportation, we have FAA, Federal Aviation Administration. Correct?

Mr. HASELTINE. Correct.

Senator BREAUX. We have an administrator.

Mr. HASELTINE. Correct.

Senator BREAUX. We have, within the Department of Transportation, MARAD dealing with the merchant marine industry. It has an administrator. Correct?

Mr. HASELTINE. Correct.

Senator BREAUX. Within the DOT, we have UMTA, Urban Mass Transit Administration. It has an administrator. Correct?

Mr. HASELTINE. Correct.

Senator BREAUX. Within the DOT, we have the Federal Railroad Administration. It has an administrator. Correct?

Mr. HASELTINE. Yes, sir.

Senator BREAUX. Within the DOT, we have a Federal Highway Administration which has an administrator at the head of it. Correct?

Mr. HASELTINE. That's correct.

Senator BREAUX. But within the DOT when it comes to motor carrier problems, we don't have an administrator, do we?

Mr. HASELTINE. No, sir.

Senator BREAUX. Now the point that our legislation seeks to look into is that if all these other methodologies of commerce and transportation sit at the Secretary's level with an administrator, why is it inappropriate to say that the motor carrier, dealing with what runs on our roads and all of the various complicated things that they get into, should not also have the same status as the shipping industry, as the airline industry, as the railroad industry? What is wrong with saying that they should all be at the same table and able to meet at the same time with the same rank? Why is that a bad idea?

Mr. HASELTINE. I don't think there is anything conceptually wrong with that, Senator. I think each of the motor carrier administration proposals that I have seen, including the bill we are discussing here, number one, would not combine all of the motor carrier functions. We would still have three agencies, in fact, four when you consider hazardous materials transportation being administered by our Research and Special Programs Administration, dealing with motor carrier issues. Highway transportation is somewhat different than other transportation modes in this country. We have multiple users.

While I think there is nothing conceptually wrong with having an administrator for motor carriers, we still do not really know what that gives the motor carrier industry in the long run. Is it promotional—somebody promoting that industry? We don't think most of the transportation industry—quite frankly, we don't think that FAA and FRA ought to have the kinds of promotional responsibilities that they have right now. We think that those are mature industries, and they ought to be able to handle themselves.

With respect to having everything all together and all motor carrier issues being handled within the same organization, that still would not happen, Senator.

With respect to costs, yes, it costs a little more. We would have to add some staff. I don't think that is the major concern when you compare that to the overall DOT budget.

I'll tell you the major concern I have right now in the short run—and I think it is the same one that Mr. Landis has—and that

is with the very full plate that we do have. Senator Danforth's comments about our inability to do things quickly enough, albeit we are keeping up with the 1986 act requirements and getting some final rules out, the last thing I think that we need within the Department right now is the disruption of a reorganization which would inevitably happen with a motor carrier administration in the next couple of years while we are trying to get very important safety regulations finalized. There is absolutely no question in my mind, and I don't think that it is all that debatable, that if we were to reorganize and establish a motor carrier administration right now, it would further delay completion of the rulemakings that the Congress is concerned about right now.

Senator BREAUX. That doesn't wash, and you know that. I mean, you cannot tell me that by creating an administration, it is going to slow down the rulemaking process. The same people are going to be involved in making the rules and proposing the rules. What are you going to do? Lock them in a room and tell them not to do anything for six months? I mean, that is not——

Mr. HASELTINE. Organizational change would inevitably take time. Or if you are simply putting on a new title and a new name, then I would question what the benefit is..

Senator BREAUX. Well, it is inconceivable, I would say to Mr. Haseltine, that we can have all of these other modes of transportation at one level and one that is equally important to this Nation's economy and have it at a different level. I mean, we are saying that all the rest are more important than one. And it is not true. And I think it is a minor change, but I think it is an incredibly important change.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator.

I just have a couple of questions.

I would say to you gentlemen the criticism that has been voiced here this morning by the Senator from Missouri and the Senator from Louisiana is pretty widely held, I believe, on this committee. Safety is an oversight responsibility that we take very seriously up here. That does not mean to say that you do not, you in the Department of Transportation.

But in addition to truck safety, we feel that the administration has not been as forthcoming as it should have been on rail safety, certainly on airline safety. And I believe that the record will show that safety is uppermost in the minds of the members of this committee in discharging our responsibility. And I would simply state that as a statement of fact. Regardless of costs. Let me say again, regardless of reasonable costs.

Now, one of the reasons that I understand that the Department is not enthusiastic about S. 747 is that it is going to cost some money. Could you give us any ball park estimates today, Mr. Haseltine or Mr. Miller or Mr. Landis, as to what you think the cost would be if 747 was enacted, and if it is enacted, will you work closely with us to minimize these costs and still increase the awareness of safety that we think is essential?

Mr. HASELTINE. I believe the GAO estimated somewhere between $2.4 and $3 million additional costs, approximately 30 additional employees, Mr. Chairman.

In response to your second question, if this bill is enacted into law, would we work with you cooperatively, the answer is absolutely "yes," without question.

Senator EXON. One last question about the role of the trucking industry. Motor carriers play an essential role in our daily lives. The industry is our most pervasive transportation mode. I have been told that the trucking industry employs 7.4 million Americans and generates annual revenues in excess of $200 billion each year. Innercity buses carry over 325 million passengers.

However, within DOT motor carrier issues are represented by an associate administrator for motor carrier in the Federal Highway Administration. Mr. Landis is only one of 34 associate administrators within DOT, 6 of whom are within the Federal Highway Administration.

Given the extensive bureaucracy that we have in other modes of transportation, railroads and airline industries, do you believe with the important role that the American trucking industry plays—are we giving enough attention to this? In fact, the American Trucking Association in its written testimony mentions that for Fiscal Year 1988 requested research funding of the Federal Highway Administration is less than 2 percent. Only 2 percent of that is for the motor carrier research purposes.

I would ask you, Mr. Haseltine and probably you, Mr. Landis—this is your main area of responsibility—do you think we are paying enough attention to this tremendously important mode of transportation especially from a safety standpoint?

Mr. HASELTINE. In terms of attention to the issue, yes, Mr. Chairman, I do. I'll let Mr. Landis answer independently.

With respect to the research dollars you mentioned, there are some additional research dollars for motor carrier issues within NHTSA, Mr. Chairman, because they do have the vehicle safety responsibilities in promulgation of safety standards on new vehicles, not in FHWA's Office of Motor Carriers, which would remain that way. Let me repeat it would continue to be the case if S. 747 were enacted.

Mr. LANDIS. My initial response to the question: "is enough attention being given?", is that I give darn near every waking hour I have to the issues that we are working with here. I don't no what difference it would make, given the organization I have, to make a change.

The research area is an interesting area because it is one that we have changed our focus on over the last couple of years; since I have been there we have added to it. And with that has come about a 60 percent increase in research and development funding. It has a long way to go, but it has certainly been increasing. Right now our package for 1989 is in the neighborhood of $2.3 million in requests, which is up significantly over the past few years.

That results from having an office now that is responsible for attending to the research area. They have put together a research plan, a multi-year plan, which we had not had in the past. They recently put out a national call. We sent letters to 200 associations and entities who have responsibility for trucks and buses and asked what are the research needs. And that input is now coming into us.

We have asked a question that may not have been asked for many years.

R&D is a critical area to us, and the improvements that we have made in the last two years are significant. I am personally very satisfied with them. The trend is in the upward direction.

Mr. MILLER. Mr. Chairman, if I could add, I would like to point out that NHTSA has a similar commitment to research and development in the area of heavy trucks. In the area of new vehicle safety standards, our budget also provides, in the research end alone for heavy trucks, on the order of $2 million plus those monies that we use for data collection.

We recently produced an extensive report in response to a request by Congress on truck safety issues, particularly braking, and handling and stability, as well as a separate report on truck occupant protection. We will be commencing an extensive research and in-field testing program on antilock brakes that will extend several years and hopefully demonstrate actual in-service reliability. So, there is extensive work going on within NHTSA. As I understand the proposed legislation, those responsibilities would remain within NHTSA.

Senator EXON. Well, my time is up, gentlemen. I just would ask one question.

I suspect—and the point that I am trying to make—and I know you are doing the best job you can. This is not criticism of you at all. I get the impression that regardless of the sums of money that you have just indicated, which sound large when you mention them, I suspect that we are spending considerably less money on the overall safety consideration research and development and carrying out those activities in the trucking industry than we are in either the rail industry or the airline industry. Am I correct in my assumption?

Mr. HASELTINE. You are certainly correct, Mr. Chairman, with respect to the airline industry although I think that is a very difficult comparison to make due to the high cost of aircraft and the complexities of the air traffic control system, all of which you are very familiar with. So, I think aviation and truck research expenditures are very difficult comparisons to make. On the aviation side, security research and high technology applications for explosive detection, for example, are very expensive kinds of propositions. I don't think you can make a good comparison between those kinds of issues and the motor carrier industry.

But as Mr. Landis said, our research requirements and requests and funding in the motor carrier industry are on the way up. And I think it is only since we reorganized and established the Office of Motor Carriers and upgraded it within the Federal Highway organization that we really began to do the kind of concrete planning that was necessary to look at what our research needs really are, sir.

Senator EXON. Well, I won't pursue this any further, gentlemen. I just want to say that when you look at buses, when you look at trucks, you look and you see a potential traffic hazard that far more Americans come into daily contact with than either trains or airplanes. So, I just pass that along—a comment for what it is worth—not in the form of criticism but maybe in the form of atten-

tion. Certainly an airplane accident gets a whole lot more attention in the news media than does a truck or an automobile or bus accident. It is still very clear that far, far more people are injured or killed each and every year and each and every day on our highways and roads than on our railroads or on our scheduled airlines.

Thank you very much for your testimony, Mr. Miller, Mr. Haseltine and Mr. Landis. And you are excused.

Senator KASTEN. Mr. Chairman?

Senator EXON. Oh, I'm sorry. I didn't realize you had come in. Senator Kasten?

Senator KASTEN. Mr. Chairman, I just wanted to ask one question. It is related actually to the question that you were just touching on.

Mr. Haseltine, one of the Department's objections, as I understand it, to the motor carrier administration bill is its cost, a $2.4 million annual expense. What is the total budget of the Department of Transportation? What percent would $2.4 million be? In the Budget Committee, we would probably be rounding that I would guess.

Mr. HASELTINE. I suspect you would, Senator.

I think our fiscal year 1988 budget request was $23 billion plus, which was about $5 billion less than our fiscal year 1987 budget request. Certainly when compared to the Department's overall budget, I am not going to sit here and disagree that that is a fairly small number.

On the other hand, if we do not see a useful benefit, then I don't think there is any need to spend any amount of money, Senator. And that is our concern.

Senator KASTEN. I don't disagree with you, but I think we would also—I mean, $2.4 million is—if in fact the purpose of this legislation is going to lead to increased safety or better coordination or whatever, it seems to me that to be objecting on that basis or that basis alone would not be very sound.

Currently—and this is what I wanted to ask you about—the Office of Motor Carriers at the FHWA—and I was going through with the staff to get all these different names: the FHWA, NHTSA, RSPA, and the ICC. I guess there would probably be even some more that you could give me. But all of these groups, and some others are performing the different motor carrier related functions in different ways, shapes. People are tucked away in different buildings, different spaces.

For example, the Office of Motor Carriers determines a motor carrier's safety fitness rating. But it is the ICC that is responsible for removing the operating authority of a motor carrier whose rating would be found by that other group to be unsatisfactory. Now, that is just one example of which a decision is made in one place and then depending on what that decision is, the responsibility is shifted to another place.

I have two questions for you. First of all, wouldn't it make sense to combine some of these functions within a single agency where it would be more efficient? And secondly, in the process of your cost benefit analysis of this legislation, have you taken into consideration the fact that if certain of these functions were centralized that there may be savings in other areas? Is your $2.4 million

based on simply additional spending that would be made in this group, or were you also assuming that we would be making some savings in some of these other bureaucratic cubbyholes that you have tucked around Washington? First of all, would coordination help? And second, is the cost based on simply additional cost, or is the cost based on the fact that we could make some savings?

Mr. HASELTINE. First of all, with respect to the coordination issue, Senator——

Senator EXON. Mr. Haseltine, could I interrupt you just a minute?

Mr. HASELTINE. Certainly.

Senator EXON. I have been called over to the floor for a meeting that is going on on the budget proposition and the debt ceiling. And I will be gone for a little bit. We have a roll call vote at 10:30. I hope we can keep this moving along. In the meantime, I will turn it over to a member of the subcommittee, Senator Adams, who will chair. And I apologize for the interruption. I will be back as soon as I can.

Mr. HASELTINE. Thank you.

Senator, with respect to coordination, first of all, the only case in which the ICC would deal with the carrier's certificate is when a carrier is regulated by the ICC. That is a very small number—some 33,000 out of several hundred thousand trucking companies in this country. The remainder would be handled by the Office of Motor Carriers.

Our suggested solution with respect to the ICC, by the way—we have legislation that would sunset the Interstate Commerce Commission.

Senator KASTEN. We just picked that. You understand the concept.

Mr. HASELTINE. Yes, okay.

Senator KASTEN. And that is one small example.

But our understanding is that there are these bureaucratic overlaps and that is one of the things that this legislation is geared to be.

Mr. HASELTINE. But the remainder of the examples that you use, Senator, your bill, S. 747, would do nothing to change the role that the Research and Special Programs Administration, RSPA, plays with respect to hazardous materials. Those functions would remain within RSPA, if I am correct?

This bill would do nothing to change the portion of motor carrier activities with respect to vehicle safety standards for new vehicles currently handled by the National Highway Traffic Safety Administration. Under this bill those functions would remain with the National Highway Traffic Safety Administration. So, even with the legislation that has been proposed, Senator, it would not accomplish what you are suggesting.

Senator BREAUX. Would the Senator yield?

Senator KASTEN. John, if I could just follow one step. Then would you be willing to support this legislation and work with us if we were able—this is what we are doing here, making a record on this legislation. That is the purpose of hearings. Would you be willing and anxious then to work with us in support of legislation such as

this if we could do a better job of eliminating some of these bureaucratic entanglements?

Mr. HASELTINE. Of course, we would be willing to work with you, Senator. Again, the only caution that I would have—and I know Senator Breaux is going to jump on me again—is that I would not care to put the Office of Motor Carriers through a major organizational disruption until we get a lot the safety rulemakings out that we are trying to get out over the next 12 months or so.

Senator KASTEN. I would be pleased to yield to the Senator.

Senator ADAMS. The Senator's time has expired. The Senator from Louisiana?

Senator BREAUX. Thank you.

The point about the safety features being in another area—it's the same way it is with the FAA, isn't it? The National Transportation Safety Board—don't they do the investigations on accidents? It doesn't create a problem with the FAA.

Mr. HASELTINE. They do investigations on accidents, but they do not promulgate the safety standards. It is not an analogous situation.

Senator BREAUX. Yes. We have numerous examples of an administrator having some other function within his purview of jurisdiction that is assisted by some other subagency of the government. I don't think that is a valid argument why we should not have an administrator for motor carriers and still allow some other sections of his area to be covered by existing portions of our government.

Senator ADAMS. Gentlemen, thank you.

Gentlemen, I will not ask you any questions. I went through the reorganization of the Department of Transportation 10 years ago for a period of 2½ years. Motor carriers obviously should have been placed into a separate administration at one time. We had a whole series of different plans. I am certainly willing to hear your comments. I hope you will take back to the Deputy Secretary, who is in charge of administration and of organizing these plans, the clear message that was given by Senator Kasten and by Senator Breaux that we are very much concerned about the safety aspects of trucking and trucking regulation.

The ICC, being an independent agency, does have a different relationship to the Department, but the motor carrier division was left in the Federal Highway Administration by historical reasons only. And the Federal Highway Administration has changed its function because its original historic purpose is almost completed in the sense of the interstate highway systems, and it is shifting function rapidly.

So, I hope you will consider these comments that have been made, and I also hope that you will consider the rulemaking on both antilocks, using the European experience, the commercial zone exemption, which is a very dangerous area now because of the expanded size, and taking care of replacing the comic book log books with computerized equipment so that we get some idea of driving times.

I thank you all very much for being here. And as Senator Exon said, we appreciate your testimony.

[The statement follows:]

STATEMENT OF PHILIP W. HASELTINE, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DOT

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to meet with you today and to provide the Department of Transportation's views on the two proposed bills you are considering today. With me today are Deputy National Highway Traffic Safety Administrator Jeffrey Miller and Associate Administrator for Motor Carriers Richard P. Landis. We appreciate the efforts and cooperation of the Congress, and particularly this Committee, to help improve motor carrier safety. As you know, Secretary Dole has made it her number one priority to improve transportation safety and I am pleased to say that since 1981, the combination truck fatality rate has been declining.

Our common objectives are to improve the safety of our Nation's highways for all users and to be responsive to everchanging conditions affecting the truck and bus industries. However, it is unfortunate that today is one of those occasions when the Department and the Congress disagree about how to best achieve our shared objectives. DOT does not support enactment of S. 747 and S. 861 because we feel they are necessary and will not enhance DOT's ability to manage motor carrier safety programs.

S. 747

Creating a separate modal administration would be an expensive and inefficient means of addressing the Department's motor carrier responsibilities. It would result in three agencies within DOT dealing with motor carrier issues—a motor carrier administration would assume responsibility for regulating motor carrier safety; the National Highway Traffic Safety Administration would continue to establish vehicle manufacturing standards; and the Federal Highway Administration (FHWA) would continue to establish cost allocation, user fees, and highway operating policies directly affecting motor carriers and all other highway users. This would hinder the coordinated planning and implementation of policies associated with motor carrier issues.

Additional staff and resource overhead would be required to support a separate motor carrier administration. Last year GAO estimated that an additional $2.4 million and 30 staff would be needed annually to support a motor carrier administration under similar legislation introduced in the last Congress. We believe the needs would actually be much longer. Regardless, the organizational structure and the day-to-day working relationship with States would not come close to mirroring what occurs now through FHWA's network of regional and division offices located in all the State Capitals and other major cities. Our current organizational arrangement is responsive to the States and compatible with their motor carrier functions.

The current organizational arrangement within the Department provides the appropriate perspective for the Secretary to address the concerns of the motor carrier industry when formulating transportation policy and making decisions affecting the industry. The Secretary relies on the Federal Highway Administration to take the lead in resolving an array of interrelated motor carrier issues including safety requirements, taxes, cost allocation, and highway investment. Industry's views are balanced within the broader context of highway needs and the concerns of all highway users.

The FHWA Associate Administrator for Motor Carriers serves as the primary focal point in the DOT for contacts with the motor carrier industry on all motor carrier transportation matters. This official is instrumental in proposing new and revised legislation and in developing rules, policies, and procedures to carry out the department's responsibilities for motor carrier transportation. Through this organizational arrangement, we are providing a high level point of access within the Department for representatives of the motor carrier industry to express their views on significant motor carrier issues.

As a recent example of the cooperation between FHWA and the industry, I want to point to the efforts of the Associate Administrator for Motor Carriers in implementing the Commercial Motor Vehicle Safety Act of 1986—landmark legislation sponsored by Senator Danforth and Senator Hollings of this Committee. The FHWA issued regulations on June 1, 1987 to implement the single license requirements that were effective the beginning of this month. During development of the regulations, FHWA consulted the industry and received recommendations through the National Motor Carrier Advisory Committee which was created five years ago to get direct industry input in our programs. FHWA staff worked closely with representatives of several trade associations and the States to develop and carry out a public information campaign to advise drivers and employers of their shared responsibil-

ities under the new licensing program and, more specifically, to get drivers to turn in multiple licenses. These efforts are paying off. Moreover, we have laid the foundation for continued cooperation among the industry, the States, and FHWA throughout the implementation of the commercial driver's license program.

Quite frankly, the transition to a new, separate administration could also divert resources and distract the attention of senior managers and staff who are working on important motor carrier safety initiatives such as the commercial driver's license program. We have successfully met the deadlines thus far established by the 1986 Act. Over the next year and half we will establish the clearinghouse on driver's status and standards for testing and licensing drivers, and for blood alcohol concentration level for when a person is deemed to be driving under the influence of alcohol while operating a commercial motor vehicle. In all candor, the development and implementation of this important program would likely suffer if the Department's motor carrier operations were to go through a major organizational restructuring during the next two years.

S. 861

I now turn to S. 861, the proposed Truck and Bus Safety Act of 1987. We fully agree with the objectives of the bill. As I stated at the outset of my testimony, safety is the top priority with the Department and we have been working diligently to reduce deaths, injuries and property damage from transportation crashes. We are gratified to see that the fatality rate for crashes involving combination trucks—in deaths per 100 million vehicle miles—is lower than it was in 1981 (from 6.65 to 5.84). Nevertheless, we believe that any fatalities are too many and we are continuing to seek ways to further reduce the fatality rate.

The bill has three main provisions. First, it would require the Secretary within one year to issue regulations that would remove the commercial zone exemption from the motor carrier safety regulations for interstate motor carriers and drivers operating in the zones. Second, it would require the Secretary to issue regulations within nine months that establish methods for using on-board monitoring devices to record speed, driving time and other information in order to improve safety. Third, it would require the Secretary to complete rulemaking within nine months on the need to adopt methods for improving braking standards for trucks, that include methods to improve brake timing and to use anti-lock systems and load proportioning valves on trucks and truck trailers manufactured after July 1, 1987. I want to report on our activities and progress in each of these areas.

COMMERCIAL ZONE EXEMPTION

In 1985, we published an Advance Notice of Proposed Rulemaking (ANPRM) on this subject. I want to emphasize that we are proposing to eliminate the exemption from the safety regulations, but we strongly favor and fully intend that exemptions from economic regulation continue. In response to the comments we had received on the ANPRM, we published, on July 13, 1987, just two days ago, a Notice of Proposed Rulemaking (NPRM) to do just that.

Twelve States are already regulating motor carrier safety within commercial zones with State regulations that are compatible with Federal safety regulations. Our proposed rule recognizes and relies on these States' regulations within their jurisdiction, so the 12 States or others who adopt compatible rules would not be affected by our proposed elimination of the commercial zone exemption and could continue their current pratices without Federal intervention. Other States participating in the MCSAP program would be required to regulate the safety operation of interstate motor carriers and drivers now covered by the commercial zone exemption. The FHWA also would begin full compliance and enforcement activities.

The recognition of these 12 States is one of the differences between our proposed rule and S. 861. Another difference is the "grandfathering" of motor carriers and drivers now operating under the commercial zone exemption. S. 861 would grandfather carriers and drivers, who operated under the exemption a year prior to enactment of the bill and did not have a traffic control violation during the three years before enactment, for as long as they do not commit a violation. Our proposed rule would grandfather selected drivers for a 2-year period—such as drivers who are under age or would not be medically certified under certain Federal safety regulations (except those who are drug or alcohol dependent). We would *not* grandfather motor carriers or drivers who transport hazardous materials; they would be subject to the safety regulations immediately. We believe our approach is straightforward from a safety and enforcement standpoint, while recognizing that we are affecting individuals' livelihood.

We strongly agree with Members of Congress and this Committee that the commercial zone exemption has outlived its intended benefit. We fully expect that we will issue a final rule within the time frame proposed in the bill. We believe it can be repealed administratively and does not require statutory action.

ON-BOARD MONITORING DEVICES

On-board monitoring devices represent a case where Federal regulations should be responsive to changes in technology. There are currently some motor carriers using these devices to record information about vehicle speed, fuel use, and operation which is helpful to improve fleet and vehicle utilization, thereby reducing operating costs and increasing productivity. From the regulatory side, the requirement for a driver to use a daily log book to record work time dates back to 1940 under an Interstate Commerce Commission rule. While the format has changed over the years the principle and purpose of the driver's log is the same—the driver writes the times of starting and stopping work, and enforcement officers use the log largely to determine that a person is not driving excessively to minimize the probability of fatigue-related accidents. Unfortunately, the log has become widely referred to by drivers as the "comic book."

The issue before us is how well on-board recorders serve the purpose of the driver's log and contribute to the safe operation of large trucks. In 1978, the FHWA conducted research on the tachograph, an on-board electro-mechanical device linked to a truck's drive train that produces accurate paper records of time, speed and other operating data. The FHWA study, however, deemed the device not to be tamper-resistant. It also found that the tachographs limitations to just a single paper record, as well as its inability to record driver activities when a vehicle was stopped, were additional drawbacks.

In April 1985, the FHWA granted a waiver to Frito-Lay, Inc., to use on-board computers for recording driver's hours-of-service in lieu of the handwritten driver's log. At the time, there was only one U.S. manufacturer of the devices. The device showed promise of being driver-interactive and tamper-resistant, so the driver's hours-of-service record would be reliable. Frito-Lay managers also began to realize the utility of the information recorded by the device in improving productivity.

As a result of increasing interest and technical advances, the FHWA issued an ANPRM on July 13, 1987, to request comments on the use of on-board computers in trucks. We are especially interested in seeking comments on issues which we have not been able to fully assess from the experience of individual carriers—such as the extent to which they are tamperproof, have the capability of providing information to enforcement officers, whether they are practical for small carriers, and their direct safety benefits. The same day we issued the ANPRM we issued waivers for six additional fleets to test these devices and use them in lieu of driver logs.

We recognize the potential usefulness of on-board computers and similar devices to the industry and are seeking ways that they can best be used to meet industry needs and satisfy the hours-of-service requirements. Quite frankly, we are not ready to mandate them for all drivers and carriers as suggested by this legislation and groups such as the Insurance Institute for Highway Safety. There is currently limited, competitive availability of these systems in the U.S., with each device running about $1,000 per vehicle. With over 3 million vehicles potentially impacted by mandatory requirements, the costs to the industry would be substantial. We believe the rulemaking process and further practical experience can help address many of the complex technical, cost, and safety ramifications. We view the case-by-case petition and waiver process as inefficient and unmanageable in the long run and will work aggressively towards a final rule on the use of on-board computers.

NEW BRAKING TECHNOLOGY

On the subject of improved braking for trucks, we believe that the necessary braking technology may now exist, but we oppose the regulatory approach mandated by S. 861. The rulemaking under S. 861 would have potentially serious consequences for several rulemaking actions under the National Traffic and Motor Vehicle Safety Act.

The requirement to include "faster brake timing" in the rulemaking could delay rulemaking already in progress on brake timing. NHTSA issued a Notice of Proposed Rulemaking (NPRM) in mid-1985 to improve timing on trucks and trailers. The agency has completed its review of the comments and is preparing a final rule which we expect to be issued this fall. If enacted, S. 861 would effectively preclude the issuance of this forthcoming final rule on brake timing because it shifts the focus to *faster* brake timing, rather than on *effective* timing. The concept of effective

timing relates to compatibility between the brake systems of tractors and trailers. It is extremely important for proper brake functioning and to reduce wear on brake systems. We believe it would be ill-advised to suspend that rulemaking as S. 861 would appear to direct.

By contrast, the determination of the need for antilock brakes within a nine-month period would be a precipitous decision on this complicated issue. When lockup occurs and a tire begins to skid, it not only produces lower stopping friction, but the wheel loses its ability to provide directional stability to the vehicle. Brake lockup on the rear wheels of a truck often means that it will swing around and brake lockup on the drive wheels of a combination vehicle will result in a "jackknife." The antilock device is intended to keep the wheels rolling under strong braking action, just short of the lockup and skid point, while the load proportioning valve is intended to distribute the braking load in proportion to the loads on the axles.

Let me tell you some of the things we think a good braking system should be able to do:

First, it should be able to meter brake pressure to give optimal breaking, not only on panic stops, but on normal controlled slowing and stopping. Second, it needs to operate with a wide variation of vehicle weight on the axle, from empty to fully loaded. Third, it should be operable under all road conditions from firm and dry to wet or icy. Fourth, it should allow for a variety of tractor-trailer and multiple trailer configurations. Fifth, it should be tough, reliable and relatively easy to maintain, so that it will remain operational under typical U.S. usage. Sixth, it should have fail-safe characteristics, such that a failure of the system does not precipitate a crash. And finally, it should be testable and inspectable so that the operator, as well as highway safety inspectors, can be sure that it is operating properly. With all of the above, antilock systems or any other braking technologies will have to be affordable, so that they will not place an undue financial burden on the trucking industry.

New antilock systems have now been developed by European manufacturers, using today's improved electronic circuitry. These systems have begun to be used in European fleets within the last two or three years. American original equipment manufacturers and fleet operators are now using antilocks in a few American fleets on a trial basis and American brake manufacturers have prototype antilock systems undergoing fleet testing.

The Department began test track evaluations of the new systems last year at its Ohio test facility. We are reviewing the initial results and intend to expand and continue this activity.

In the 1978 *PACCAR* decision, the U.S. Court of Appeals for the 9th Circuit invalidated those portions of NHTSA's airbrake standard which necessitated the use of antilock systems in large part because the agency had not collected enough data to demonstrate the safety and reliability of the antilock systems on vehicles in use. Now that there are production antilock systems available and additional systems being tested, we can evaluate the reliability of the new systems, consistent with the *PACCAR* decision. Thus, we are beginning a full-scale field test of an antilock-equipped fleet. We will evaluate antilock systems on 200 vehicles for two years under conditions of normal commercial use. The fleet will be equipped with several different antilock systems, ranging from the all-wheel sensor systems used on some European vehicles to simpler systems currently under development by U.S. manufacturers. In our truck safety report to Congress, we outlined this test program and the need for each step. The appropriations committees have provided $1.25 million in our FY 1987 appropriations to begin this testing program, and the House Appropriations Committee has identified $1.55 million for that purpose in FY 1988.

Our goal, in the field test, is to evaluate antilock systems under American operating conditions, which differ significantly from those in Europe, and to examine methods for ensuring the reliability of such systems. We expect to have preliminary results from the field test by 1990. This time frame will be necessary to examine the reliability issue thoroughly, so that any rulemaking we undertake will avoid the result in the *PACCAR* case which stemmed from the earlier lack of data on real world safety and reliability.

The third truck braking device mentioned in subsection 4(b) of S. 861 is the load proportioning valve. Although these valves have been used in Europe, the substantial differences between European and American trucks, particularly in the suspension systems, raise questions about the relevance of the European experience as to our vehicles. As in the case of antilocks, the load proportioning valve would require considerably more than nine months to be evaluated properly. At a minimum, we would have to conduct a full field test on American vehicles under conditions typi-

cal of those on American highways. Such a test would be impossible to conduct within the time constraints imposed by S. 861. As we discussed in our truck safety report, we believe antilock systems offer greater potential for improved braking performance, so we are concentrating our resources and testing efforts on that technology. While we will continue to look at the load proportioning systems, the Department believes that the antilock system offers the highest near-term payoff for our research efforts.

SUMMARY

As you can see, we are already well along in doing the things that S. 861 would require of us. We are working on eliminating the commercial zone safety exemption through the regulatory process, we have begun rulemaking on the desirability of on-board recorders, and we are well into the testing program that can lead to improved braking standards using antilock technology. The legislative mandate in S. 861 reduces DOT flexibility to craft appropriate regulatory solutions and sets an unreasonable time frame.

Let us examine the schedule realistically. On the commercial zone exemption, with our NPRM already issued, we may be a little ahead of the S. 861 schedule. It seems quite likely that we can reach a final decision within a year from the time the bill could be enacted.

As for on-board recorders, we are already off a to a good start. The results of the current fleet tests are critical to this rulemaking, particularly in demonstrating both the reliability of equipment and its ability to pay for itself in operating efficiency and enhanced safety. We will not be in a position to issue a final rule in nine months as S. 861 would require, but given the very full plate that the Office of Motor Carriers (OMC) staff has to complete the regulations required by the 1984 and 1986 Acts, as well as the commercial zone exemption, a nine month schedule seems impossible to achieve, even under statutory mandate.

The same applies to the antilock device issue. After having had the first rule struck down by the Court of Appeals, NHTSA's caution in this matter is both proper and essential. We are going to have to answer each of the questions the rule failed on before. I am convinced that we are moving as fast as is reasonably possible on the antilock issue now. It would not be prudent to force NHTSA to abandon their test plan to meet an arbitrary rulemaking schedule.

That concludes my formal testimony. I will be glad to answer any questions you may have.

Senator ADAMS. We will move to the first panel. We have activities on the floor, so some of us may be coming and going. We apologize for that in advance, but we will go over for votes and will try to keep the hearings moving along because we would like to continue them. So, Senator Breaux and I will try to rotate in and out of the chair here. He is actually my ranking superior member here. So, I am going to defer to him when he wants to take the chair.

The next panel please. Mr. Donohue, Mr. O'Connell, Mr. Durham, welcome to the committee. We are pleased to have you here as a panel, and will, for lack of a differing order, since you are all from different groups, we will simply start with Mr. Donohue since you are on that side, for no other reason. And then we will go to Mr. O'Connell and Mr. Durham.

So, Mr. Donohue, do you want to proceed with your statement? You may read it, insert portions into the record. And if you wish to do so, without objection, your total statement will appear in the record and you may summarize or hopefully not read from it, but however you wish to proceed. You are recognized. Mr. Donohue.

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. DONOHUE. Thank you very much, Senator. We very much appreciate the committee moving quickly on hearings on these two important bills.

Tomorrow it will be three years that I have been at the American Trucking Associations, and in that short time we have seen the Congress, the media and the public talk more about trucking than ever before. Now, that is very simple to understand when you consider the many safety concerns that have been expressed, has happened as a result of deregulation, mergers and bankruptcies, the massive changes in taxes that have taken place as a result of expansive state and Federal taxes that affect trucking, the discussion of how taxes can affect the deficit, and finally the discussions of size and weights and productivity.

During that three year period, we have worked with the Congress and the Department of Transportation to stress first and foremost safety. We—that is, the industry—led the battle to have passed through this Congress a piece of legislation that creates a single national driver's license issued by the states. And that was so important not only because of what it does in itself, but because it redirected the energies of the Congress and of the administration to look at the real problem on the roads: not the trucks where most of our energies have gone, but on the drivers.

We have supported roadside inspections, truck driver training, 55 miles an hour, and supervisor training. We have put our own team of professional truck drivers out on the road, and we have put teams of observers on the beltway in Washington, Boston, Georgia and Chicago to encourage truck safety.

The second thing, Mr. Chairman, that we have done during that period of time, is to stress the essentiality of trucking, its role in our economy and in our international position as a world trading partner. And we have heard this morning many of the statistics on the size of the industry and the number of people who work there, and the only thing that was not mentioned was heavy trucks traveled 126 billion miles last year supporting the economy of this country.

Today we meet to discuss two pieces of legislation, one that deals with the motor carrier administration and one that deals with commercial zones, truck brakes and on-board computers. You will be pleased to know, Mr. Chairman, that on three of these, we are in general agreement with the Department of Transportation and with the legislation which you have sponsored. Let me comment very briefly.

First, on the commercial zone, we agree with the Department of Transportation and with your legislation as to the problem. We agree there needs to be an elimination of those zones as quickly as possible as it pertains to safety. We would approach it just a little differently than the Department of Transportation.

The recent proposal asking for a rulemaking will take, as Senator Danforth indicated this morning, perhaps a year and a half, and then a two year period of transition if, in fact, we finally change the law or change the rules. I think we are allowing ourselves a long period of time to do a job that should be done very quickly.

I would encourage the Congress and this committee to move forward very aggressively on the legislation proposed to eliminate the commercial zone exemptions in those many places around this country where unsafe trucks and unsafe drivers operate today.

The second issue I think that we would agree on is that there needs to be more control on the hours of service. The suggestion that we need to look more closely at the question of on-board computers makes a lot of sense. It makes sense because it is a new technology, and it makes sense because it gives us another control factor.

But before we run off and do a rulemaking, there are a number of things we should focus on. First of all, many types of trucking business don't need on-board computers because they run from one place to another in a guaranteed period of time every day, or because Trucks owned and operated by individuals have no one to check on the accuracy of the computers.

What we need, sir, is demonstration. The DOT needs to allow many different types of companies to try these and to test them as management tools. And we have right now a cooperative program between the industry and the DOT for that purpose.

My concern about the way the rulemaking has been proposed in the legislation is that we would move from cooperation to an adversary position over a very compressed period of time with the fear that we would be forced to put expensive machinery into trucks where it would not be used. We support the concept of on-board computers but ask for the Congress to press DOT to act on it in a cooperative way. We are just not sure that the rulemaking is the right way to go.

Of course, the same thing applies to the question of the antilock brakes. Mr. Chairman, as you know, and as was discussed by Mr. Haseltine, the technology is just emerging. And the problem we had back in the 1970s was very, very serious.

Senator ADAMS. Let me ask you about that, Mr. Donohue. I don't want to break into your statement, but——

Mr. DONOHUE. No. Please go right ahead, sir.

Senator ADAMS. But I remember the 1970s very well on the antilock. And when you say the technology is just breaking in, that concerns me in that 10 years ago we had we thought two or three types of antilock brakes, and it was a matter of selecting one over the other.

I have been informed by staff and by other sources that the Europeans have developed and are using on their heavy trucks a successful antilock. The antilock we had was successful in a lot of ways, but it did not, because of its computerization and hard road use, stand up and you didn't know whether it was going to go out or not.

Would you report to me and the committee what that is right now, what you are referring to that we just have the technology now?

Mr. DONOHUE. Yes, Mr. Chairman. First, just one sentence as I begin. I am not a brake expert.

Senator ADAMS. I know, but you are the person who is the expert on the brake expert.

Mr. DONOHUE. That's exactly right, and I am prepared to give you extensive detail on this. But let me give you my understanding.

My understanding is, first of all—and I have been to Europe and looked at the trucking systems there. Here, we run much bigger

trucks over much more difficult terrain, over much longer distances with a wider variety of geography and weather.

Second, we run our trucks over these distances with less control of the maintenance system, and the antilock systems that have been tested to date in these conditions on these trucks are still unproven.

As a matter of fact, one of the companies that are now going to offer them, originally a European company now manufacturing trucks in this country, has said just in recent weeks that we should not make this mandatory because we need to go out, between the companies and the manufacturers, and get the bugs out of this system before we require it to become a national system.

Remember, sir, that the antilock brake is for the emergency stop. We need to put, I think, tremendous amounts of money and energy into our standard braking system which brakes billions of times a day in the stops of our trucks. What we have to be careful of is not to promise somebody a rose garden because these antilock brakes are an additional technology, but they are not a panacea. They are not going to resolve our situation as the technology now exists.

What I want to commit to you is that our industry will move ahead immediately to work with DOT, to work with the manufacturers and to work with the Congress to test every possible scenario that can be given to us that is in any way cost effective and in any way safety effective. We are not hiding behind——

Senator ADAMS. Mr. Donohue, I don't want to cut you off because I asked you the question, and I think it is terribly important. We are into the last half of the vote. I have asked Senator Breaux to return so we can continue with the panel.

We will return immediately as soon as we have voted. And gentlemen, I apologize for this.

Mr. DONOHUE. I'll try and get a more concise sentence to answer your question.

Senator ADAMS. All right. You're doing very well, and I appreciate that.

The committee will stand adjourned subject to the call of the Chair which should not be more than between 10 and 15 minutes, and less I hope. We will stand adjourned subject to the call of the Chair.

[Short recess]

Senator EXON. The Chair apologizes to the witnesses. I warned that this would be a very difficult day, and it is starting out that way and will probably end this way late tonight. I apologize for the inconvenience to the witnesses.

I understand that Senator Adams had posed a question, and you were just beginning to respond, Mr. Donohue. May I ask you to proceed if you remember the continuity, which I am just now fitting back into.

Mr. DONOHUE. Well, thank you very much, Senator. In fact, the break enabled me to put my thoughts in a little more orderly fashion. So, I might just say in response to the Senator's question about why we don't move immediately forward with the rulemaking on antilock brakes, which I discussed briefly—I would simply add a few points.

In Europe, of the 600,000 commercial trucks that would normally have antilock brakes, only 45,000 do. They are not mandated. The Europeans have said in a recent conference in Canada that they should not be mandated at this time because the electronics are still an unproven factor. We began to make the point that in the United States the geography, the stop-and-go traffic, the weather, all affect this technology. Our trucks are bigger and heavier and travel further.

And so, what we would suggest instead of a rulemaking which creates a situation of people being at opposite ends of a pole with one another because of the short time frame for rulemaking that we move forward aggressively and immediately on the test that the Department of Transportation plans with the 200 trucks. And we will support it as an industry, and we will look for every way to improve brake safety.

Mr. Chairman, that would end my comment, my response to Senator Adams. I was about two-thirds of the way through my brief opening statement, and with your permission, I will just finish it by commenting on the fourth issue in this legislation and that is the creation of a motor carrier administration. And I would say in this matter there is some difference of opinion between ourselves and the Department of Transportation.

It is clear from my perspective that there are four, five or six reasons that we ought to move ahead with a motor carrier administration. Trucks are the largest economic component for the transport of materials in this country, and there is no administrator in the Department of Transportation to worry about our wellbeing. Those matters are all handled in the Highway Administration, an organization that focuses clearly on the matters of cement and cars.

If Mr. Haseltine is correct, and if there is no value in having an administrator who would deal with this huge economic factor—that is, trucks and busses—then perhaps, sir, we ought to get rid of all the other modal administrators and organize DOT along functional lines. You can't have it both ways.

The third point is, I think safety demands a motor carrier administration. Why is it that the industry had to push for a single national driver's license? Why is it that the industry had to push for some change in the commercial zones? Why is it that the industry [A] had to provide the motivation for more roadside inspections? [working closely with the Congress] It is because in DOT there is clearly a focus on highways and cars and very little focus on trucks.

There are four other reasons why I think, sir, we ought to do this. First, as all of us look at the trucking industry, we find that there is a critical lack of data about our business. A motor carrier administration would spend the time, the money and the energy to understand more about this business, which would help us make important decisions.

The other point I would make is that the motor carrier administration would only cost $2.4 million. And if you take the Coast Guard budget out of the DOT budget, the DOT has spent approximately $6 million since this hearing started. So, I don't really think that we are talking about a great deal of money.

And finally, I think it is important to understand that equity and fairness demand a motor carrier administration, that those who are responsible for trucking be at the same level of management as those who run the other modal groups so that they have access to the Secretary so they can feel the heat and the light and the power instead of being so far away from it that they do not know what is going on.

Mr. Chairman, if I might mention, as I wrap up my comments, there are two changes that ought to be made in this legislation. Number one, there needs to be just a technical change to include the recent legislation passed by the Congress on the driver's license and the safety provisions so that that also becomes a part of the legislation.

And number two, there is a provision in there, section 3, which establishes a situation that six months from now that the Secretary of Transportation and the Chairman of the ICC should get together to figure out any duplicate activities that are going on and see if they can consolidate them.

Mr. Chairman, this moves us to a whole item of regulation and deregulation. And I think one of two things should be done. Either that section should be eliminated as not being germane to the bill, or it should be changed so that it is not just the Chairman of the ICC and the Secretary of Transportation, but the whole Commission and other parties as well.

Let me wrap up, Mr. Chairman, by thanking you, because I didn't have an opportunity to do this when I started, for a very quick and efficient hearing on these two pieces of legislation.

Let me say that I think that improved truck safety demands that we move ahead on these two pieces of legislation. Improved control over the hours of our workers and the brake performance suggest that we move forward. But most of all the fact that all of us are concerned that trucking not only respond to the critics who deal with it every day, but take strong steps forward to resolve some of its own problems. I think if we could make this change in DOT and make this important change in safety rules and regulations, we would do ourselves a favor and our families a favor.

And I thank you very much for your support, Mr. Chairman.

[The statement follows:]

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

I. INTRODUCTION

I am Thomas J. Donohue, President and Chief Executive Officer of the American Trucking Associations. I welcome the opportunity, today, to give trucking industry views on S. 747, a bill to establish a Motor Carrier Administration in the Department of Transportation and on S. 861, the "Truck and Bus Safety Act of 1987."

ATA believes that improved truck safety is good for business and is a primary responsibility of every manager in the trucking business.

In previous appearances before this Committee, I have detailed the many safety programs that ATA has initiated, supported in Congress, and advocated at the Department of Transportation.

I appear before you today in strong support of the Committee's continuing efforts to improve truck safety. ATA remains dedicated to safety and to the objectives of S. 747 and S. 861.

I wish to thank you, Senator Exon, for holding hearings on these Bills at an early date.

I also wish to express my appreciation to Senator Hollings, Senator Danforth and other co-sponsors of this legislation.

My testimony today demonstrates the strong support of the trucking industry for a Motor Carrier Administration.

My statement is on behalf of ATA, the national trade association of the trucking industry. Through its 51 affiliated trucking associations located in every state and the District of Columbia, 10 affilated conferences, and serveral thousand motor carrier members, ATA represents every type and class of motor carrier in the nation: for-hire and private; regulated and exempt.

I am pleased to report that a Coalition of 19 organizations is committed to passage of S. 747. These are national associations representative of thousands of businesses, manufacturing concerns, and agricultural enterprises throughout the nation which are heavily dependent upon motor carriers for the safe and efficient transportation of their products and materials.

A list of the Coalition members is attached to my statement.

The trucking industry is composed of more than 260,000 American firms, and accounts for 77 percent of all freight transportation revenues in this country. The trucking industry employs 7.4 million Americans and generates annual revenues in excess of $200 billion.

The public and the American economy depend heavily on truck transportation to provide the goods, services, and materials that move America. Yet, most motor carriers are small in that they operate less than six vehicles. Many truck operators do not consider themselves as part of the trucking industry because their primary business is that of manufacturing, or of providing a service, and their operation of trucks is only a small part of the business.

This makes it difficult to keep the industry informed about safety laws and regulations, and about the knowledge, skills and attitudes that are so important to truck safety. To overcome these difficulties there must be strong federal leadership and continuing programs by industry and government so that we can improve compliance with regulations, shape the skill, knowledge and attitudes of drivers, and assure that vehicles are built and maintained for maximum safety.

ATA has initiated numerous programs for the trucking industry to help attain these objectives. There are training programs for drivers and supervisors, monitoring programs to detect unsafe vehicles and unsafe drivers, and research to identify accident experience, and to improve vehicle performance, especially in the area of truck brakes.

We support and promote legislative and regulatory efforts for such things as improved truck inspection programs, more effective auditing of motor carrier safety programs and records, and meaningful driver license requirements and driving records.

S. 747 is important to motor carrier transportation of passengers and freight, and to the public. Its purpose is to promote the safety, efficiency and productivity of the motor carrier industry, the largest and most pervasive mode of transportation in the nation.

While we support S. 747 as it pertains to formation of a motor carrier administration we must oppose Section 3. This provision is inconsistent and outside of the scope of the objectives of the bill which are to provide the trucking industry with equal, more effective representation at DOT.

I welcome the opportunity, also, to express our strong support for the intent of S. 861, which deals with three important safety subjects: the commercial zone safety exemption, hours of service records, and truck brakes.

We must eliminate the commercial zone safety exemption, as would be done by S. 861. The exemption is a major loophole in efforts of government and industry to remove unsafe drivers and unsafe vehicles from the highways. It permits significant numbers of trucks and drivers to operate without being in compliance with critically important Federal Motor Carrier Safety Regulations which apply to interstate truck operations, and to most intrastate operations. If we expect to be successful in legislative, regulatory and voluntary efforts to improve truck safety, the exemption must go.

The trucking industry supports the intent of Section 4(a) or S. 861 to the extent that it opens the door for improvements in time records available to motor carriers for monitoring of driver hours of service limits. We believe that such improvements can enhance compliance with the hours of service regulations and reduce the potential for fatigue related truck accidents.

We agree with the intent of S. 861 for truck brake improvements. The recent Congressional mandates for increased truck inspections and for operative front axle brakes will improve truck brake performance dramatically, Yet we also see the need

for further improvement upon the current basic brake system and for the incorporation of new brake technology in the current system.

We are concerned that Sections 4 (a) and (b) of S. 861 mandate *rulemaking* for improvements in time records and brake performance. Our concern is that the establishment of rulemaking will formalize and inhibit current working relationships that have been established and are ongoing for such improvements. We are concerned that rulemaking procedures will limit discussions, research and development now taking place between industry and government.

Rulemaking will create an adversarial relationship between industry interests and DOT, while an aggressive research and development program will encourage the cooperation needed to resolve these matters.

We urge that S. 861 be amended to direct the Secretary of Transportation to engage in research, development and testing which will expedite improvements in time records and in brake systems, and to delete the provisions for mandatory rulemaking. If these changes are made it would eliminate a major concern that ATA has with the proposed legislation.

II. NEED FOR A MOTOR CARRIER ADMINISTRATION

The public and the American ecomony depend heavily on truck transportation to provide the goods, services, and materials that keep America alive and dynamic. As they provide a variety of essential services to industrial, business and residential neighborhoods in every town and city, trucks share the streets and highways with millions of Americans.

It is imperative, for the public interest, that truck transportation be made as safe and efficient as possible. This can be accomplished only through strong Federal leadership. Because the trucking industry is composed of thousands of small companies and a diversity of operations from coast to coast, it is impossible for state and local governments to effectively manage and promote the safety, efficiency and productivity of truck operations without strong Federal programs and guidance. In the past such state and local efforts have led to the extremes of no controls on truck operations in some locales, and excessive, sometimes conflicting limitations on truck transportation in others. These situations have adversely impacted the safety of truck operations, efficiency of service, and improvements in technology.

DOT motor carrier functions are the responsibility of the Federal Highway Administrator, whose primary concern is, of course, building and maintaining highways. The Federal Highway Administration (FHWA) has a $13 billion budget to administer a highway construction program. Motor carrier concerns, with a budget of about $75 million are not a major focus within the FHWA.

The FHWA motor carrier duties are carried out by the Associate Administrator for Motor Carriers, who, according to the Secretary of Transportation: "serves as the primary focal point in DOT for contacts with representatives of the motor carrier industry on all motor carrier transportation matters. This official is also instrumental in proposing new and revised legislation and in developing rules, policies and procedures to carry out the Department's responsibilities for motor carrier transportation."

Despite the DOT viewpoint that the position of Associate Administrator for Motor Carriers is "a high level point of access within the Department for the trucking industry representatives" it is obvious that this is not a top level policy position within FHWA, or DOT. There are six other Associate Administrators in the FHWA. The Associate Administrator for Motor Carriers is just one of 34 Associate Administrators in the Department of Transportation.

DOT believes "that by establishing the Associate Administrator for Motor Carriers position, we are successfully addressing the principal concerns of the Congress, the motor carrier industry, and others concerning the administration of the agency's motor carrier and motor carrier safety programs."

The trucking industry does not agree. We appreciate efforts within FHWA, by Ray Barnhart, Bob Farris, and Dick Landes, to provide a better forum in DOT for motor carrier issues. However, today, there is not a coordinated and cohesive program in DOT to deal with issues, to seek out potential problems and prospective solutions, and to advise the Congress and the Secretary of Transportation of laws, regulations and programs that are needed to make motor carrier operations safer and more productive for the benefit of the public now and in the future.

Examples of problems are:

Truck research is scattered throughout DOT. For successful research, a program should be housed in a Motor Carrier Administration, and there should be a master

truck research plan, similar to that of the Federal Railroad Administration and the Federal Aviation Administration.

FHWA and the states cannot or will not resolve the problems of access of STAA type vehicles to terminals and customer locations. The states are FHWA's best clients in the field of highway construction and maintenance and so a close rapport has been established. It is understandable that FHWA wishes to maintain a good relationship with the states and avoid confrontations whenever possible. However, this leaves the trucking industry without proper representation in DOT of its interests. The only alternative for motor carriers was to seek productivity legislation in the Senate and House to eliminate unreasonable restrictions.

The U.S. trucking industry has not been allowed input or representation by DOT for meetings between Canada and the U.S. to resolve transportation problems. A modal administration would have been made more aware of the problems facing the industry and been in a better position to deal with the Canadians on those issues.

Size and weight limits are a constant source of conflict between FHWA and motor carriers. As a highway user, the trucking industry seeks size and weight allowances which will improve the efficiency of its operations and the productivity of its employees and vehicles. FHWA, the highway builder, is more prone to ignore potential benefits for motor carriers of size and weight increases and to keep strict limits on sizes and weights. In this scenario it is impossible for FHWA to objectively consider the interests of the trucking industry.

An adversarial relationship between the motor carrier industry and FHWA also surfaces when cost/allocation determinations are made. Industry cost allocation studies do not agree with FHWA cost allocation studies. Each looks after primary interests. There is no representation of trucking by a government unit that is both knowledgeable and concerned about trucking. A Motor Carrier Administrator might not side with the trucking industry but, at least, would not be strongly biased toward the highway construction viewpoint.

The trucking industry is not represented by a modal administrator at Congressional hearings. Other modes are represented, even when the hearings deal with motor carrier matters, such as the Surface Transportation Assistance Act hearings in 1982.

The secondary importance of motor carrier matters to the FHWA and its inability to deal objectively with motor carrier matters is illustrated in two ways:

1. FHWA has requested research funding of $20 million for FY 1988. Of this amount less than 2% ($330,000) is for motor carrier research purposes, even though the nation's commercial expenditures for motor carrier transportation are well above $200 billion annually, compared to an annual highway investment nationally of $54 billion;

2. In discussing research and the desirability of greater operating freedom of motor carriers to produce additional efficiencies, FHWA states "Such freedoms could have a negative effect on public safety, traffic operations, and the service life of the Nation's highways."

By comparison, the Federal Railroad Administration is very aggressive concerning its role of Federal leadership for the railroad industry. Its Office of Policy "conducts internal studies dealing with traffic, economic forecasting, financial condition, and other factors that contribute to an efficient railroad network."

The FRA policy support function "provides for the development of policies designed to *promote* the railroad mode within the transportation sector." [italics supplied]

A recent filing with the Interstate Commerce Commission shows another dimension of the problem faced by motor carriers. The issue deals with the acquisition of a trucking company (Overnite Transportation) by a railroad (Union Pacific). The DOT comments included the views of DOT's Federal Railroad Administration. But, according to DOT's own brief, FHWA did not have a similar role.

The motor carrier industry does not begrudge the advocacy role played by the modal administrations for the rail, air, and maritime industries. We believe, however, that there must be equitable treatment for motor carriers through establishment of a Motor Carrier Administration.

The mission of a Motor Carrier Administration would be to:

1. Facilitate truck and bus operations to benefit shippers and the public interest now and in years to come;

2. Fulfill the purposes of the Department of Transportation Act relative to transportation policy, technological development, transportation safety, protecting the environment, improving transportation systems, and protecting consumer interests;

3. Provide comprehensive motor carrier research, planning and programming that will enable Congress and the Federal government to make well founded and properly directed legislative and regulatory decisions.

A Motor Carrier Administration is needed to deal with the numerous issues which arise from motor carrier operations and which must be dealt with effectively by the Federal government and the Congress. Such issues include: productivity; safety; hazardous materials transportation; size and weights of vehicles; environmental protection, and taxation.

These issues can be dealt with more effectively and more efficiently through a Motor Carrier Administration. Such an Administration would be relatively the same size as the Urban Mass Transportation Administration (with an authorized strength in 1987 of 443). It would provide better access to information, data bases, research results and technology transfer.

A Motor Carrier Administration can be established at a cost saving resulting from elimination of motor carrier activities which are now duplicated among DOT units. However, I must emphasize our opposition to the implication of Section 3 of S. 747 for removing ICC motor carrier functions to the Motor Carrier Administration. The review that is mandated by Section 3 would entangle the Bill in the kind of reregulation-deregulation issues that have delayed the consideration of other legislation. This bill must not be encumbered with economic issues that are outside the scope of DOT's functions.

ATA recommends that Section 3 of S. 747 should be deleted, or at least modified to provide that the review should be by the Secretary of Transportation and the ICC Commissioners, and that it should be limited to motor carrier activities duplicated with DOT and ICC.

I wish to express support for the provision of S. 747 which states that the authority to promulgate motor vehicle safety standards applicable to the manufacture of trucks and buses shall remain in the National Highway Traffic Safety Administration.

It is equally important that the current hazardous materials functions within DOT not be disturbed. The development and interpretation of regulations should remain with the Research and Special Programs Administration, and enforcement should continue as part of the motor carrier functions. This arrangement allows representation of all modes of transportation in the rulemaking activities along with shippers and container manufacturers. It allows, also, for the educational and enforcement activities to be carried out by the modal administrations in conjunction with their ongoing regulatory programs for their respective modes.

I recommend that the bill be amended to transfer to the Motor Carrier Administration all functions that are currently carried out by the Office of Motor Carriers. These include recent functions that Congress has created such as the Motor Carrier Safety Assistance Program (Chapter 32 of the Appendix to Title 49), safety regulatory responsibilities under the 1984 Motor Carrier Safety Act (Chapter 34 of the Appendix to Title 49), and the commercial driver's license (Chapter 36 of the Appendix to Title 49).

III. PROBLEM OF THE COMMERCIAL ZONE EXEMPTION

The commercial zone safety exemption cannot be rationalized or justified. While government and industry expend millions of dollars to improve truck safety, the task cannot be accomplished if thousands of unsafe trucks and unqualified drivers are allowed to operate in these zones.

The commercial zone exemption is a safety anachronism whose time has run out. Continuation of this exemption results in the nation's towns and cities serving as a potential dumping ground for unqualified and unfit truck drivers and unsafe trucks.

When federal regulation of interstate trucking was implemented in 1935, the commercial zone exemption had a minimal impact on safety. Local truck operations were limited and drivers operated within a few miles of their home bases. Cities, towns and villages were small and truck terminals were located within the limits of the communities they served. Speeds were predominantly low because truck operations were subjected to the low speed limits of narrow, congested streets in urban, residential and business districts. Traffic volumes were but a fraction of what they are today and the trucks were smaller, less complex and had lower speed capabilities.

The situation has changed dramatically over the years. Urban areas of all sizes have expanded and now feature high-speed arterial streets, expressways and bypasses. With urban growth, motor carriers relocated their places of business to outlying areas while remaining within the territorial limits of the commercial zone ex-

emptions. Of necessity, carriers use high-speed arterials to and from these outlying terminals in order to serve their customers. Vehicles and drivers operating wholly within commercial zones are operating at the same speeds and under the same conditions on these arterials as line-haul vehicles and drivers meeting the requirements of the Federal Motor Carrier Safety Regulations.

There has been a growing trend to use heavier trucks and tractor-semitrailer equipment in commercial zones. To a great extent, these combinations and straight trucks, alike, are powered by diesel engines and equipped with air brakes. Thus, many of the vehicles used wholly within commercial zones are not basically different from the vehicles used in intercity service which are subject to the requirements of the FMCSR pertaining to Parts and Accessories (49 CFR, Part 393), and Inspection & Maintenance (49 CFR, Part 396).

It is not conducive to highway safety to allow vehicles which operate in interstate commerce wholly within commerical zones to continue to operate totally free of compliance with the FMCSR, especially when these commerical zone vehicles operate in an environment of high speed and congested traffic.

There is no incentive for law enforcement officers to inspect trucks and drivers on the road in these areas to ascertain the condition of the vehicles and to determine whether or not drivers are properly qualified.

The dilapidated condition of local trucks in a major east coast area of contiguous commercial zones is a case in point. Battered and dented vehicles can be seen with broken, missing and inoperative lights and dangling and noisy exhausts. Not infrequently, they break down in traffic adding to the already-monumental congestion, forcing other drivers to make hazardous lane changes to get around the obstruction. Yet, vehicles in this deplorable condition are totally free to operate on both sides of the state line, in interstate commerce, so long as they operate wholly within the commercial zones.

The effects are not limited to vehicles transporting general freight. The exemption also covers interstate vehicles such as dump trucks and others in the construction industry, including vehicles towing specialized equipment; trash trucks; department store delivery vehicles; vehicles package delivery services; and countless other medium-duty and heavy-duty vehicles operating in local areas.

These vehicles comprise a high percentage of vehicles using arterial streets, highways and expressways, and they are also a high percentage of the vehicles in reported accidents.

There is no safety justification for continuing to sanction virtually uncontrolled operation of these vehicles and drivers because they are kept within the limited confines of a commercial zone. It is not acceptable to allow substandard drivers and/or vehicles to share streets and highways with the public.

Two examples of designated commercial zones are found in Washington, DC, and St. Louis. The area of the Washington, DC commercial zone approaches 900 square miles. It is a "designated" commercial zone which has boundaries that are basically 2 to 5 miles outside of the Capital Beltway. However, there are extensions to Dulles Airport on the west and to Shady Grove Road north of Rockville, Md.

There are no major motor carrier terminals or facilities in Washington. All of them have moved to the eastern and southern suburbs, albeit remaining within the commercial zone. From a facility in Newington, Va. at the southern end of the zone, to Rockville, Md. at the northern end is approximately 35 miles. Utilizing available interstate highways, approximately 30 miles of this route will be in heavy high-speed traffic, varying from 6 to 8 lanes in width and liberally sprinkled with complex interchanges, each of which handles large volumes of traffic.

On Washington's Capital Beltway, there are 120,000 or more vehicles passing a given point each day. Approximately 12,000 (10%) of these vehicles are commercial trucks many of which operate only in the Washington commercial zone.

The "designated" commercial zone for St. Louis/East St. Louis is estimated by ATA to cover an area of at least 400 square miles. There are nine major truck routes in this zone: I-270 and I-255 functioning as a beltway; I-44, I-55, I-70; U.S. 40, U.S. 50, U.S. 61, and U.S. 67.

In the St. Louis area, especially during morning and afternoon rush hours, periods of driving at open-highway speeds are interspersed with long stretches of stop-and-go driving, as is the case in virtually all metropolitan areas. Congestion is heavy and there is a large concentration of trucks, as would be expected in a major industrial center.

Commercial zones can be substantial areas throughout the nation within which trucks can operate without the need to meet minimum requirements of the FMCSR, and without monitoring beyond that level of traffic law enforcement that is applicable to the motoring public in general.

WHAT REGULATIONS ARE EXEMPTED?

Drivers and vehicles operating wholly within the exempt commercial zone do not have to comply with most of the Federal Motor Carrier Safety Regulations, including requirements governing: Vehicle inspection and maintenance requirements; parts and accessories required on vehicles; driving rules; and driver qualifications, including: pre-employment and biennial physicals; checks of past employment and driving records; road tests and tests of safety knowledge; driver performance records; and provisions for disqualification of unfit drivers.

EFFECTS ON SYSTEMATIC ENFORCEMENT

The opportunity to upgrade the overall safety of commercial zone truck operations through the Motor Carrier Safety Assistance Program (MCSAP) is being lost because some states, as they adopt the Federal Motor Carrier Safety Regulations, are adopting the commercial zone exemption, making it applicable to operations confined to the vicinity of cities, towns and villages within their borders.

Recently, a dump truck was involved in an accident in Maryland that took the lives of two teenage students. It was registered in Virginia, but for three years had not undergone the annual safety inspection prescribed by the laws of the Commonwealth. The driver-owner was operating on a suspended District of Columbia license, and the vehicle was presumably being used primarily in Maryland where there are no periodic state inspection requirements. Under the commercial zone exemption from the Federal Motor Carrier Safety Regulations, this vehicle could be operated within all, or major portions of, the District of Columbia, and Montgomery and Prince Georges Counties of Maryland, without being subject to effective safety regulations and controls.

Maryland and Virginia adopted a commercial zone exemption comparable to that of the FMCSR at the time they adopted the federal regulations in connection with their participation in the Motor Carrier Safety Assistance Program (MCSAP). ATA has learned that when Maryland joined the Motor Carrier Safety Assistance Program, the state's Department of Transportation sought to delete the commercial zone exemption when it adopted the FMCSR, only to be told by the Maryland Attorney-General, that it must adopt the federal regulations verbatim. This is, in our view, another clear acknowledgment that the exemption is perpetuating a loophole in truck safety enforcement. In Virginia, the exemption is applicable to interstate carriers, but not to intrastate operations. Therefore, there is minimum incentive for officers in either state to conduct safety inspections within commercial zones where they would be barred from taking action against the high proportion of vehicles and drivers covered by the exemption.

SOLVING THE PROBLEM

The continued existence of this loophole can only militate against efforts to improve the safety of purely local truck operations by federal and state agencies, and this loophole can only be closed by deletion of the commercial zone exemption as it now applies to vehicles with a gross weight rating in excess of 10,000 pounds, and their drivers.

The trucking industry can no longer accept a situation in which commercial zone drivers operate under conditions as stressful as those facing line-haul drivers without the assurance that they meet the minimum qualifications of the FMCSR.

In a petition filed with the Secretary of Transportation January 13, 1987, ATA urged deletion of the commercial zone exemption through the publication of an Interim Final Rule. Our request for an Interim Rule was denied on June 23 because DOT said there is not an "emergency."

On Monday DOT initiated rulemaking to revise the commercial zone exemption, in part. The proposal is very confusing. Without an Interim Rule, the DOT process of rulemaking could take two years or longer. We believe an emergency situation does exist and that's why we are seeking a legislative remedy.

We need fast action by the Congress to eliminate the exemption and the danger of unsafe trucks and unsafe drivers in commercial zones. We urge action by Congress, now, to get this legislation passed.

We do not oppose the exception in S. 861 which allows safe drivers to continue to operate in commercial zones even though they are not physically qualified. We recognize the need to protect the livelihood of such drivers as long as they continue to operate safely.

IV. THE TRUCKING INDUSTRY POSITION ON TIME RECORDS

Section 4(a) of S. 861 mandates rulemaking by the Secretary on the need to adopt methods for improving safety, such as vehicle on-board monitoring devices.

We assume that the objective of this provision is to find ways of improving the maintenance of time records for compliance with the hours of service regulations of the Department of Transportation. ATA supports that objective.

The trucking industry has endorsed the hours of service limits for many years. Since the regulations first took effect in the late 1930s the industry has found that they provide adequate protection against driver fatigue and the risk of fatigue-caused accidents.

The industry also recognizes that there must be records which will provide management with internal control over drivers' hours, and to provide a means for the authorities to monitor compliance.

Historically, the driver's log has been the only record authorized for this purpose, although the Department of Transportation has now authorized a test program for a fleet which uses on-board computers, and is planning to extend the authorization to six additional carriers.

The industry believes there is a need for more flexibility in record keeping requirements so that a carrier may use the system which is best suited to its needs and operating conditions.

The driver who departs from and completes work at a company facility should not have to maintain a record beyond the normal time records required for payroll and other business purposes. In local operations, there is frequent contact between the driver and supervisor as the driver makes normal contacts concerning the pickup and delivery of freight.

In intercity terminal-to-terminal operations, terminals are so located, and runs scheduled in a manner which inherently minimizes the opportunity for hours of service violations.

In those operations where there is only infrequent direct contact between the driver and the carrier, other systems might be more practical.

It should be recognized, however, that mandating recorders or any other records system cannot be expected to automatically solve all the problems. Such devices and systems can be tampered with just as logs can be falsified. If records are not monitored by management and by enforcement officials, discrepancies in time records will be allowed to stand and hours of service limits will be violated by some drivers and some motor carriers.

ATA estimates that a minimum of 2 million drivers are subject to the logkeeping requirements of the Federal Motor Carrier Safety Regulations. We estimate that each driver prepares 300 logs per year, for a total of 600 million logs per year for all drivers.

In light of this it is imperative that new and improved time record systems be developed to improve compliance and enforcement in relation to hours of service requirements. The trucking industry has applauded the action of DOT in authorizing the present pioneer program of alternative hours of service recordkeeping. If the current experiment proves successful we believe that there should be a general rule by which other motor carriers are allowed to use on-board computers in lieu of logs.

We would, however, strongly oppose a mandated use of such computers by all motor carriers. The devices are costly in terms of purchase price and the cost of installation, maintenance and repair. These cost elements escalate rapidly and in proportion to the sophistication of the equipment.

Their reliability is questionable because of vibration and exposure to truck operating environments. If recorders are mandated and break down a truck could not be operated until repairs or replacement had been made. This could result in costly delays.

The devices are not tamper-proof. If a driver-owner or some other person wants to alter the mechanism it can be done without too much difficulty.

There are no well-documented studies which show that the use of recorders improves safety. Representatives of those carriers which do use recorders state that, used for safety reasons alone, the devices would not be cost-effective. Where used, recorders are a management tool which is one component of an overall program of driver and vehicle control. The program begins with the careful screening of applicants for driving jobs. It includes necessary training, and an ongoing program to maintain driver interest in safety and the awareness of safety problems, backed by incentives for superior performance and safe driving.

Unless there are data to show that on-board computers are necessary, practical and effective for all types of truck operations and that there is no practical alterna-

tive, their use should not be mandated. Nor should there be a mandate from Congress at this time for rulemaking.

ATA believes that a preferable approach is for Congress to mandate a program of research and development to determine the various types of time records that might be used as alternatives for the current requirements.

The trucking industry would provide active support for such a program.

V. IMPROVEMENT OF TRUCK BRAKE PERFORMANCE

Section 4(b) of S. 861 directs the Secretary of Transportation to initiate rulemaking procedures on the need to adopt methods for improving braking performance standards for trucks and truck trailers, including faster brake timing, anti-lock systems and load proportioning valves.

The trucking industry recognizes that there are truck brake problems that must be resolved. These are: Brake adjustment and maintenance problems; problems of identification and performance of valves and linings; compatibility problems of tractors and trailers, and of new vehicles coupled to older vehicles; brake timing problems; problems of variations in brake capacity according to loaded or empty condition, and according to length and severity of grades; and problems of stopping distances.

The foremost problem is that of maintenance, as evidenced by the number of trucks placed out of service at roadside inspection points because of brake defects and brake adjustment problems.

The maintenance problem is made more complex because it is frequentiy impossible to identify and match replacement valves and linings with original equipment. Even when matched by part number they may have different operating characteristics than the original components, even though they supposedly are manufactured to the same specifications. These differences can affect stopping distances and vehicle control.

The differences in braking capabilities of tractors and trailers creates another problem of truck braking performance. Brakes may apply or release sooner on tractors than on trailers. The problem is compounded by lack of compatibility of braking capabilities of older vehicles and new vehicles when coupled to each other. Brakes on one or the other may be less aggressive, causing an imbalance in braking performance. These differences cause an instability in the vehicle during severe brake applications.

Another problem of brake performance between vehicles, and from axle to axle results from the timing of brake applications throughout the system. If brake timing is unbalanced the delayed application of brakes on some axles can result in transfer of forces from one point in the vehicle to another and cause problems of steering and stability.

Truck brake performance is adversely affected because brakes must be built to handle vehicle weights in the range from empty weight to full gross vehicle weight. Brakes that perform well under the fully loaded vehicle condition may provide too much braking force when the vehicle is empty. The variation in brake performance also occurs from axle to axle, according to weight distribution of the load transported by the vehicle.

In a discussion of truck brake capacity, the National Highway Traffic Safety Administration (NHTSA) points out in its "Heavy Truck Safety Study" (March, 1987) that truck brake systems have a great deal more capacity than is required to make most routine stops and that "problems only arise when the vehicle has to make a brake application that results in wheel lockup or while negotiating steep downgrades." Another brake problem for trucks is, according to NHTSA, inadequate capacity in continuous or repeated braking situations. When descending a grade truck drivers must frequently rely on a combination of gears and braking effort to avoid a runaway. On many long steep grades brakes alone cannot keep the vehicle under control because a buildup of excessive heat will result in brake fade and loss of braking capability.

The problem of wheel lockup relates to panic stops. The vast majority of tops require less than full output of the brake system. An extermely short panic stop may be needed it the driver allows things to go too far before taking corrective action. Data is needed before a true assessment can be made of the safety impact of reducing the panic stopping distance of trucks. A reduction of 55 to 60 feet would be significant and difficult to achieve from 60 mph. Would it reduce accidents?

We wholeheartedly agree with the intent of S. 861 to improve truck braking performance standards. It is extremely important to answer the question of what is needed before readesigning today's truck brakes. The trade-off for shorter panic

stops is that new brake systems will have more parts and require additional, more sophisticated maintenance, which is undersirable. Need must be determined to avoid greatly increasing the complexity of the brake system.

The solution for shorter panic stops is not necessarily the same or best solution for problems of maintenance, compatibility, timing, parts identification, etc. For example, critics of today's truck brakes claim that the biggest problem is maintenance. If that is true, then making them more complicated will make maintenance more difficult.

According to NHTSA, "while optimum limit performance capability is obviously a desirable feature to have in an accident avoidance situation, these conditions are, hopefully, rarely faced if the vehicle is driven prudently. Thus, the more pressing objectives to be met in brake design are to provide systems which are reliable, durable, comparatively inexpensive, easily maintained, and which function well in routine stopping situations. The systems that have evloved meet most of the objectives fairly well."

Today's truck are being built with adequate, sate brakes. There are hundreds of millions of truck brake applications daily that bring trucks to a safe stop. It's obvious also, that there is room for improvement.

The immediate need is for action that will improve the reliability and performance of today's brakes on today's trucks. This is not being accomplished partically through some improvement in brake maintenance that has resulted from the increased roadside inspection by government agencies of vehicles in service, and removal of those which have brake defects and deficiencies. It is ongoing, also because of the recent mandate by the Congress and DOT that all trucks built after July, 1980 must have operative front axle brakes. The roadside inspection program and the front brake requirement will result in significant improvements in the stopping distances of trucks in use. An additional need is for regulations which establish performance and identification requirements for truck brake linings and brake valves to asssure that when brake maintenance is performed the replacement parts will function effectively and be compatible with each other.

ATA provided strong support for the roadside inspection program and for the requirement that front axle brakes must be operative. ATA has been a vocal advocate for improved identification of brake values and linings.

The second course of action that must be taken is to modify and improve the current braking system with new brake technology. Brake adjustment indicators are needed so that mechanics and safety inspectors can readily determine if brakes need adjustment. Automatic brake adjusting devices are on the market today, but they need improvement so that they will be reliable and last as long as the brakes. Otherwise, they simply add another cost factor and maintenance problem for motor carriers.

There must be improvement of braking compatibility between tractor and trailers. The starting point for this is in the design and manufacture of their respective brake systems so that when they are mated for use on the highways they will complement each other, rather than operate at different levels of braking efficiency and timing.

Improved brake performance under varying weight and loading conditions, and a variety of road and weather conditions can probably best be attained through the use of anti-lock brake systems. The general perception seems to be that the trucking industry is opposed to anti-lock but such is not the case. Industry opposition to anti-lock in the 1970s was because the system was not fail-safe. It was unproven, and during its existence from 1975 to 1979 the trucking industry experienced the greatest and most expensive episode of brake failures that it is has ever encountered.

One of the problems with anti-lock brake systems was failure of the electronics that activated the brakes. In an effort to help overcome the problem, ATA has been chairing activities within the Society of Automotive Engineers since the late 1970s to define the environment in which electronic equipment must be designed to survive and to function satisfactorily on a truck. While nearing completion, that work still remains unfinished.

Work still remains to be done, also, on anti-lock systems. There are now systems in the market which hold promise for this technology but they are yet unproven.

This new equipment costs roughly $1200 per axle or $6000 for a five axle combination like a tractor-semitrailer. Early results from fleets experimenting with this equipment are a mixed review. While the electronics equipment seems better, the old problems with sensors and wiring remain.

DOT has just started a million dollar program of checking the effectiveness and reliability of the present generation of antilock equipment. This work involves proving ground demonstrations of the capabilities of the systems now being offered and

will entail a two year in-fleet test to see how the equipment fares in the "real-world" of trucking in the United States.

In Western Europe about 45,000 of 600,000 trucks are equipped with antilock brakes. There is no requirment that vehicles must be equipped with antilock. At a symposium of the Organization for Economic Cooperation and Development, in April, 1987, speakers from the International Organization of Motor Vehicle Manufacturers and the International Road Transport Union described programs in Europe to improve truck brakes. In their remarks they discouraged regulations mandating antilock brake systems in view of system costs, reliability factors, and the need to develop design solutions to current problems.

DOT is monitoring the progress of antilock systems in Europe, in addition to conducting its own research and experiments. The European experience will provide information to DOT that is based on different operating conditions and lower vehicle mileages than those of American trucks and so the use of such information in decisions affecting U.S. trucking must be considered in that regard.

The present European systems apparently still have problems of electronic failure and glazing of linings resulting from the on/off cycling action of the anti-lock system. Some of the problems of maintaining anti-lock brakes are resolved in Europe by farming out work on anti-lock systems to a manufacturers' service network or to independent agents. By comparison American carriers generally perform their own maintenance and do not have specialized capabilities for handling complex electronic brake systems. Yet if maintenance is not properly performed the potential for electronic failure of the anti-lock system is greatly increased.

ATA will support the government activity for testing and improvement of antilock systems. In fact, at the present time government and industry are cooperating in identifying a variety of truck brake problems and practical solutions to those problems. Industry has formed the Truck Trailer Brake Research Group (TTBRG) which is composed of: American Trucking Associations; Canadian Trucking Association; Heavy Duty Manufacturers Association; Motor Vehicle Manufacturers Association; Private Truck Council of America; and Truck Trailer Manufacturers Association.

TTBRG is currently engaged in truck brake research and testing. It is involved in brake improvement programs such as emergency adjustment procedures, standardized trailer plumbing, computerized brake balance diagnostic system, compatibility performance guidelines, brake chamber stroke indicator, brake lining cross reference, method to rate lining/brake effectiveness, and lining edge code and marking.

TTBRG is in constant contact with government officials at NHTSA and at the DOT test facility in Ohio concerning their findings and recommendations for improved truck braking performance.

The industry is now studying the truck brake research plans set forth by NHTSA in its Heavy Truck Safety Study. The study was conducted in response to a mandate in Section 216 of the Truck Safety Act of 1984. If we agree with the plans we will take positive action to promote and support them.

The TTBRG activity consisting of cooperative industry efforts and support form government will be destroyed if rulemaking is initiated as proposed in S. 861. Each of the parties of interest will be forced to adopt a position and maintain it.

Relationships will be severed because of concern about *ex parte* communications. Government will withdraw support.

CONCLUSION

It is important to re-emphasize that the Department of Transportation is not now organized properly to provide Federal leadership that is needed to assure safe, efficient and productive motor carrier transportation.

A Motor Carrier Administration is needed within DOT to assure a concentration of effort on motor carrier issues that affect the public interest, as well as the interests of shippers and motor carriers.

A study by the General Accounting Office of the cost of a Motor Carrier Administration has estimated that the additional recurring administrative costs associated with a Motor Carrier Administration would be approximately $2.4 million annually. This is far less than the cost to DOT of managing air, water and rail transportation matters for one hour.

There is every reason for passage of S. 747 with the changes that we have proposed. We urge its adoption by this Committee so that it can be recommended to the full Senate for consideration and passage.

Passage of S. 861, with appropriate revisions, is needed to help eliminate problems of the commercial zone exemption, time records, and truck brake performance which have existed for too long.

The commercial zone exemption is totally unjustified in today's traffic conditions. It allows unsafe trucks and drivers to exist in heavily congested traffic operating under conditions never dreamed of 50 years ago. ATA supports the mandate contained in S. 861 for elimination of the exemption. We support the provisions which will allow safe drivers to continue to operate trucks in commercial zones, even though they might not be qualified in accordance with physical requirements of the Federal Motor Carrier Safety Regulations.

Time record requirements of the Department of Transportation also need to be modernized to promote better compliance with hours of service regulations and to reduce the potential for accidents resulting from driver fatigue. A first step has been taken by DOT in the direction of allowing motor carriers to use on-board computers as an alternative to driver logs. The door needs to be opened further so that motor carriers have a variety of time record systems to choose from, according to which is most appropriate for their particular type of operation. S. 861 can help improve the availability of time record systems by mandating research, development and testing of systems rather than rulemaking, to determine which are most practical and effective for motor carriers and for enforcement officials.

Truck brake performance is currently being improved through roadside inspections and front axle brake requirements. However, more is needed. Research and testing is ongoing through industry and government efforts. Problem areas still exist with anti-lock brakes and other new technology. There are also problems with the basic parts of the brake system, such as linings and valves, that must be resolved. Support of the Congress for increased research, development and testing for improvement of truck brakes needs to be expressed in S. 861. The current rulemaking provision in S. 861 if adopted, would tend to slow progress by formalizing the current activity and imposing procedural limits on the ability of government and industry to work together. It should be eliminated.

Senator EXON. Mr. Donohue, thank you very much. I will hold my questions until the panel finishes its testimony.

Mr. O'Connell, we will proceed with you now. Thank you.

STATEMENT OF K. MICHAEL O'CONNELL, COUNSEL, OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION OF AMERICA, INC.

Mr. O'Connell. Chairman Exon, committee staff, my name is Michael O'Connell. I am counsel to the Owner-Operators Independent Drivers Association of America. Owner-operators are small-business men and women that operate between one-third and one-half of all of the over-the-road trucks that are currently in operation in the United States. The Association appreciates the opportunity to appear today to discuss S. 747 and S. 861.

With regard to the establishment of a Federal motor carrier administration, OOIDA feels that establishing modal administrations that serve the parochial interests of their modes is not an efficient or effective means for formulating and administering national transportation policy. However, OOIDA feels that as the most significant transportation mode, the trucking industry must be afforded equal recognition, representation and advocacy within the Federal Government. And as Mr. Donohue just pointed out, that representation should be on the same management level as other modes.

The preference of the Association would be to eliminate all modal administrations and consolidate their functions in a unified Department of Transportation. However, if that is not the option chosen by Congress, OOIDA feels strongly that a Federal motor carrier administration must be created.

Recently much more attention has been focused on the issue of commercial motor carrier safety. However, the Association feels that there has been no deterioration in the safety record of the trucking industry. Indeed, the record of the industry has improved. The Association adds that it realizes that there is room for improvement in the record of the industry. However, in order to achieve these improvements, efforts must be properly directed to those areas where the greatest gains can be achieved.

In that regard, I would like to address provisions of the Truck and Bus Safety Act of 1987. The Association fully agrees with the elimination of the commercial zone exemption. However, it is strongly opposed to those portions of the bill that would require the Department of Transportation to initiate rulemakings regarding on-board monitoring devices and antilock brakes.

With regard to the commercial zone exemption, it was the trucking industry, through the American Trucking Associations, that first pointed out this gaping hole in the federal safety regulations at a hearing held last December. Our association believes that both the qualifications for operators and the commercial motor vehicle equipment safety standards should be uniform throughout the country. Therefore, OOIDA fully supports elimination of the commercial zone exemption.

With regard to on-board recording devices, the Association feels that driver fatigue is an often cited cause of commercial vehicle accidents. However, the source of that fatigue is a complex issue. Numerous studies have indicated that accidents involving trucks are most likely to occur during the first two hours that a driver is in service.

An on-board monitoring device requirement fails to take into account the human elements involved in driver fatigue. The Association urges this committee to examine the entire issue of hours of service regulations rather than to presume the effectiveness of the present regulations and focus only on improved enforcement.

With regard to antilock brakes, the committee should be aware that it is brake maintenance—primarily adjustment—and not brake equipment that accounts for the overwhelming majority of the brake problems found during roadside vehicle inspections. Antilock braking systems are much more complex than systems currently in operation. They involve more critical tolerances and adjustment.

The Association is concerned that if the present, more forgiving brake systems are difficult to maintain and keep in adjustment, the introduction of a more sophisticated system (with even more critical tolerances) may well lead to increased safety problems rather than solutions.

The Association would like to now address the issue of a realistic agenda for highway safety.

While the issues of the commercial zone exemption, on-board monitoring devices and antilock brakes are addressed in this legislation, they pale in significance when compared to the incremental safety improvement that can be achieved by the initiative that was previously recommended to this Committee by OOIDA, the proper training and qualification of entry level truck drivers.

Truck driving today is a complex occupation. It requires a knowledge of the handling characteristics of various models and combinations of tractors and trailers carrying different cargo under differing terrain, weather, traffic, and road conditions. Unfortunately, as we sit here today, persons can enter this occupation with no training and in 19 states with no examination of their abilities to actually operate the vehicles they drive.

The Commercial Motor Vehicle Safety Act of 1986 addresses part of the licensing and qualification problem. However, it fails to speak to the most important issue.

As you pointed out, Mr. Chairman, pilots of small aircraft are required to undergo rigorous training by certified trainers prior to being permitted to operate even small single engine aircraft. Yet, commercial motor vehicle operators that operate in much closer proximity to other vehicles and in a much wider variety of circumstances have no formal training requirements at all.

This fact was underscored by a recent safety study completed by the National Transportation Safety Board. The board concluded that truck drivers, as professional vehicle operators, should be subject to a training requirement. Most of the attention that has been drawn to this NTSB report to date has focused on the findings regarding driver licenses. However, this is only part of the issue.

Mr. Chairman, if I may, I have very little of my prepared remarks left. May I summarize?

Senator EXON. Thank you, Mr. O'Connell.

[The statement follows:]

STATEMENT OF K. MICHAEL O'CONNELL, COUNSEL, OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION OF AMERICA, INC.

Chairman Exon, members of the Committee, and Committee staff, my name is Michael O'Connell, and I am counsel to the Owner-Operators Independent Drivers Association of America, Inc. ("OOIDA" or "Association"). The Association is headquartered in Oak Grove, Missouri. OOIDA is the national trade association representing independent truck owner-operators. Independent owner-operators are small business men and women that own and operate Class 7 and 8 trucks. These individuals lease their services to regulated motor carriers and private carriers, or engage in the transportation of commodities exempt from the regulations of the Interstate Commerce Commission. Owner-operators account for between one-third and one-half of all over-the-road trucks in operation in the United States.

Representatives of OOIDA participate in various committees of the National Governors' Association, the American Association of State Highway Transportation Officials, the Commercial Vehicle Safety Alliance, the National Academies of Science, and the International Registration Plan. The president of the Association is the owner-operator representative to the U.S. Department of Transportation's National Motor Carrier Advisory Committee. The Association is also very involved in the study of truck and airline safety currently being conducted by the Office of Technology Assessment. For the record, as one of the few motor carrier organizations that has unwaiveringly supported permitting the states to increase their speed limits to 65 miles per hour on rural interstate highways, OOIDA expresses its sincere thanks to you for your strong support and leadership on this issue.

OOIDA appreciates the opportunity to appear today to present the views of owner-operators on S. 747, a bill to establish Motor Carrier Administration within the Department of Transportation, and S. 861, the Truck and Bus Safety Act of 1987. Both measures could have a substantial impact on the motor carrier industry.

A FEDERAL MOTOR CARRIER ADMINISTRATION

The U.S. Department of Transportation ("DOT") has a structure different from that of many federal agencies. While DOT is a large department in terms of number of employees and annual budget, it is organized largely along modal lines as an

amalgam of distinct administrations. The transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation finally placed within one department all of the major modes of transportation. However, the modal administrations are not well integrated.

OOIDA feels that establishing modal administrations that serve the parochial interests of their modes is not an efficient or effective means for formulating and administering national transportation policy. Increasingly, "intermodalism" is becoming the watchword in the transportation industry. As this trend continues, the Association feels that such modal agencies will be counterproductive to the establishment of a sound national transportation policy capable of addressing issues involving equity among modes.

At present, the entity within the Department of Transportation that has the greatest responsibility for trucking industry matters is the Federal Highway Administration ("FHWA"). The primary role of the FHWA, to protect the capital investment in the nation's highway transportation system, shapes the policy perspective of that agency. The interests of the truck and bus industries are of secondary importance. This is not the case with other modes. For example, the Federal Railroad Administration has a clear mandate to act as an advocate for the railroad industry.

OOIDA feels that as the most significant transportation mode, the trucking industry must be afforded equal recognition, representation, and advocacy within the federal government. The preference of the Association would be to eliminate all modal administrations, and consolidate their functions under the umbrella of a unified Department of Transportation. Such a consolidation would result in substantial savings to the federal government. However, if the Congress chooses not to consolidate the existing agencies, OOIDA feels that a motor carrier administration must be created.

THE CURRENT HIGHWAY SAFETY DEBATE

The introductory statement accompanying the Truck and Bus Safety Act contains references to several recent media events that have focused attention on the truck safety "problem". As OOIDA has stated on a number of occasions and in many settings, there are a number of interests that have attempted to link the issues of truck safety and easing of entry requirements in the trucking industry. As a point of fact, this linkage has simply not occurred. However, those parties have succeeded in raising the level of concern over commercial vehicle safety. The Association invites the Committee to weigh the evidence before enacting any further legislation.

Over the past several years, there have been significant changes in the level of attention focused on truck safety and the requirements of the federal government in reporting property damage accidents. This has lead to distortions in accident reporting statistics. Moreover, inflation has exerted constant pressure, pushing up the dollar value of property damages stemming from accidents and further distorting accident statistics. Two measures of highway safety that have not been affected by interpretation of the federal reporting requirements, inflation, or regulatory change are the number of fatal crashes and the number of fatalities involving heavy trucks. Both the number of fatal accidents and accident fatalities have dropped since the easing of entry requirements in the trucking industry. Even more significantly, these absolute numbers have fallen at a time when the number of vehicle miles traveled (and thus exposure to potential accidents) has subsequently increased. (See Table 1.)

The National Governors' Association ("NGA") recently held two hearings on the issue of commercial vehicle safety. The chief administrative officer of the Missouri Department of Highways testified at one of the hearings. He reported that the number of vehicle miles traveled on interstate highways in Missouri increased by 45% from 1976 to 1986. Specifically addressing the years since the adoption of the Motor Carrier Act of 1980, he told the NGA that in 1980 heavy trucks were involved in 13.4% of all fatal accidents. He reported that by 1985 number had fallen to 9.8% of all fatal accidents. He stated: "While the total number of vehicles involved in accidents increased by 33% between 1980 and 1985, the number of trucks involved dropped by 28%". Statement of Wayne Muri, Chief Administrative Officer, Missouri Department of Highways, to the National Governors' Association (June 15, 1987).

While OOIDA acknowledges that recently, much more attention has been focused on the issue of commercial motor vehicle safety, there has been no deterioration in the safety record of the trucking industry. Indeed, the record of the industry has improved. The Association hastens to add that it does not offer this evidence as support for the proposition that there is no room for improvement in the safety record of the motor carrier industry. However, in order to achieve these improvements, ef-

forts must be properly directed to those areas where gains can be realistically achieved.

THE TRUCK AND BUS SAFETY ACT OF 1987

The Truck and Bus Safety Act of 1987 would eliminate the so-called commercial zone exemption from the Federal Motor Carrier Safety Regulations. The proposed legislation would also require the Department of Transportation to initiate rulemakings on two safety devices, on-board monitoring devices and anti-lock brakes. While the Association fully agrees with elimination of the commercial zone exemption, it is strongly opposed to those portions of the bill that would require the Department of Transportation to initiate rulemakings regarding on-board monitoring devices and anti-lock brakes.

THE COMMERCIAL ZONE EXEMPTION

The Association believes that the qualifications for operators, and commercial motor vehicle equipment safety standards should be uniform throughout the country. In this regard, OOIDA fully supported the Commercial Motor Vehicle Safety Act of 1986 that established uniform standards for the licensing and qualification of commercial vehicle operators. Further, the Association opposed a request to Secretary Dole from the Farm Bureau Federation asking for an exemption for farm truck operators from the requirements of that Act. The Association has long been outspoken in its support for complete uniformity in equipment and inspection standards.

OOIDA feels that it is an arbitary and unjustified distinction to permit persons to operate commercial vehicles in certain areas without meeting minimum driver qualifications and equipment requirements while imposing these conditions on others. Ironically, the areas included within these commercial zones are the ones that often suffer from the greatest traffic congestion and, therefore, increased exposure to potential accident situations. Therefore, OOIDA fully supports the elimination of the commercial zone exemption.

ON-BOARD RECORDING DEVICES

Numerous studies have indicated that accidents involving trucks are most likely to occur during the first two hours that a driver is in service. This statistic argues against the notion that hours of service contribute to increased commercial motor vehicle accident rates. "Driver fatigue" is an often cited cause of commercial vehicle accidents; however, the Association notes that the source of "fatigue" is a complex issue. As anyone that has every worked on extended projects realizes, there are times when mental alertness and physical abilities may peak after 12 to 14 hours on the job, while there are other times when fatigue may set in before one arrives at work after a good night's rest!

An on-board monitoring device simply will not take into account the human factors in the fatigue issue, nor might I add, do the existing federal hours of service regulations. For example, the state of California permits intrastate drivers to drive a longer number of hours than permitted by federal regulations, and yet it has one of the best safety records of all of the states. The Association urges the Committee to examine the entire issue of hours of service regulations rather than to presume their effectiveness and focus only on improved enforcement through the use of monitoring devices.

ANTI-LOCK BRAKES

Supporters of the proposed anti-lock brake requirement point to the use of anti-lock brake in Europe as evidence of the advancements that have been made since the courts in the United States struck down, in the mid-1970s, a DOT regulation requiring their use. Most of these brake systems are in use in Great Britain where there is strong opposition to mandatory use. Proponents of such systems fail to recognize the differences in vehicle configuration, operating characteristics, highway conditions, and industry characteristics between Europe and United States.

While brake problems are the most often cited vehicle defect found during inspections, the Committee should be aware that it is brake maintenance (primarily adjustment), and not brake equipment, that accounts for the overwhelming majority of these problems. Anti-lock braking systems are much more complex than present systems. As such, they involve much more critical tolerances in adjustment. Indeed, many drivers report that with anti-lock braking systems, there is little difference between perfectly adjusted brakes and no brakes at all.

OOIDA is concerned that if the present, more forgiving brake systems are difficult to maintain and keep in adjustment, the introduction of a more sophisticated braking system with critical tolerances may well lead to increased safety *problems*, not solutions. In sum, the Association believes that the "Europeanization" of the U.S. trucking industry is simply not sufficient grounds for mandating that the industry spend billions of dollars to deploy a technology that is unproven, and that may in reality be less safe than existing brake systems.

THE STRUCTURE OF THE LEGISLATION

The proposed legislation focuses on a "technofix" for the alleged highway safety problem through its emphasis on the mechanical devices rather than the human element in the safety equation. OOIDA believes that this focus is misdirected. While there is disagreement over the exact number, most parties would agree that the majority of commercial vehicle accidents *are not* caused by equipment defects. In view of these findings, OOIDA feels that it is premature to consider implementing technologies that would require investments of billions of dollars in exchange for an uncertain return in safety benefits.

The Association is fully aware that the provisions of the Truck and Bus Safety Act of 1987 do not require the Department of Transportation to adopt rules regarding on-board monitoring devices and anti-lock brakes. Rather, they instruct that agency to initiate rulemaking proceedings in these areas. However, the FHWA will not treat such a legislative mandate as an ordinary request for a rulemaking. It is for precisely that reason that OOIDA is opposed to these actions of the bill.

In the traditional legislative/regulatory environment, legislation is passed by the Congress to achieve relatively broad objectives. The implementation of that legislation is left to the discretion of the responsible executive branch agency which brings to bear its knowledge, experience and expertise in what is usually a highly technical area. In the case of both of the rulemakings that would be mandated by this Act, parties have already petitioned the Department of Transportation to request that a rulemaking be initiated. In both instances, the Department of Transportation has exercised its discretion, and based on its substantial experience and expertise, decided not to initiate a rulemaking.

Through this legislation, the Congress is "second guessing" the experts within the agency that has responsibility for this area, as well as the requisite knowledge to evaluate the merits of these devices. OOIDA feels that this sort of congressional intervention in the micromanagement of the agency rulemaking process is both unwarranted in those instances and bad policy generally. In support of this assertion, OOIDA suggests that the committee reflect on the history of the issue of splash/spray suppression devices.

Further, the Congress has asked the Office of Technology Assessment to undertake a comprehensive review of the truck safety issue. This study will review the major issues involved in commercial vehicle safety from a dispassionate scientific perspective. OOIDA feels that any legislation enacted without benefit of the findings from this detailed review would be premature.

A REALISTIC AGENDA FOR COMMERCIAL VEHICLE SAFETY

In introducing this legislation, Senator Danforth discussed the Commercial Motor Vehicle Safety Act of 1986 and stated, "It was demonstrated at a December 1986 Commerce Committee hearing that even with the new legislation, there are a number of truck and bus safety problems that still need to be addressed." OOIDA had the privilege of testifying at that hearing. While the issues of the commercial zone exemption, onboard monitoring devices, and anti-lock brakes were raised, they pale in significance when compared to the safety improvement that can be achieved by the initiative that was recommended by OOIDA (but not addressed in the present legislation)—the *proper* training and qualification of entry level truck drivers.

Truck driving today is a complex occupation. It requires a knowledge of the handling characteristics of various models and combinations of tractors and trailers carrying different cargo under differing terrain, weather, traffic and road conditions. Unfortunately, as we sit here today, persons can enter this occupation with no training, and in 19 states with no examination of their abilities to actually operate the vehicles that they drive. While the Commercial Motor Vehicle Safety Act of 1986 addresses part of this problem, it fails to speak to the most important issue. The area that offers the greatest hope for a substantial improvement in commercial vehicle safety is in the proper training of entry level drivers.

At present, pilots of small aircraft are required to undergo rigorous training by certified trainers prior to being permitted to operate even small, single engine air-

craft. Yet commercial motor vehicle operators that operate in much closer proximity to other vehicles, and in a much wider variety of circumstances, have no formal training requirements at all. This fact was underscored by a recent safety study completed by the National Transportation Board ("NTSB"). The NTSB concluded that "the Safety Board believes that truck drivers, as professional vehicle operators, should b_ subject to a training requirement." National Transportation Safety Board, "Safety Study: Training, Licensing, and Qualification Standards for Drivers of Heavy Trucks". NTSB/SS 86/02 (April 1986) at 54. Most of the attention drawn to this report has to date focused on its findings regarding driver licensing. However, this is only part of the issue. OOIDA strongly agrees with this NTSB; however, the Association urges the Congress to couple any such training requirement with assurances as to the quality of the training received.

In the same report, the NTSB stated that three elements are needed to significantly upgrade the quality of formal truck driver training programs: (1) a single, universally accepted set of criteria against which all training schools can be measured; (2) a system for evaluating each school and certifying whether it has met the criteria, and (3) a means of encouraging prospective truck drivers to obtain training and only at schools that meet the criteria. *Id.* at 54. A program aimed at achieving these objectives is currently in the final stages of development by the Professional Truck Driver Institute of America. OOIDA urges the Committee to review this work, and to work with the Institute in this area.

OOIDA strongly encourages the Congress to *carefully* consider, and *thoughtfully* address the issue of entry level commercial motor vehicle driver training. In commenting on drivers receiving inadequate training, the NTSB concluded "When a person is misled into enrolling into an expensive but worthless program, more is lost than that person's money and time. *The opportunity also is lost to produce a qualified, safe driver." Id.* at 13 (emphasis added). This opportunity is also lost if the driver receives no training at all. Given the normal turnover in the trucking industry, and the expected 17% growth in the number of persons employed in this occupation predicted by the Bureau of Labor Statistics, the training of entry level drivers represents a significant opportunity to make a *real* gain in the area of highway safety. OOIDA submits for the consideration of the Committee this agenda for commercial vehicle safety improvement.

Thank you for the opportunity to appear today on behalf of the Owner-Operators Independent Drivers Association of America.

TABLE 1.—VEHICLE MILES TRAVELED AND FATALITIES AND FATAL CRASHES

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Vehicle mls. traveled (VMT) (millions)	59,055	63,465	67,328	66,500	60,000	59,037	61,700	73,562	76,986	79,986	(1)
Fatal crashes	3,260	3,613	4,066	4,307	3,731	3,863	3,519	3,645	3,907	3,886	3,819
Million of VMT per fatal crash	18.12	17.57	16.56	15.44	16.08	15.28	17.53	20.18	19.70	20.43	(1)
Total fatalities	3,948	4,305	4,825	5,148	4,473	4,594	4,226	4,365	4,605	4,650	4,488
Millions of VMT per fatality	14.96	14.74	13.95	12.92	13.41	12.85	14.60	16.85	16.71	17.08	(1)

[1] Not applicable.
Source: National Highway Traffic Safety Administration, Federal Highway Administration.

Senator EXON. Mr. Durham.

STATEMENT OF R. V. DURHAM, DIRECTOR OF SAFETY AND HEALTH, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. DURHAM. Thank you, Mr. Chairman. I would like to thank your committee for the opportunity to come before you to discuss a number of truck safety issues of importance to our members. In recognition of the time constraints, I would like to go directly to the questions that you asked us to respond to. And I would request that our statement be made part of the record.

First, addressing the commercial zone exemption, the Teamsters Union is in support of ending the commercial zone exemption, and

we have submitted to the DOT rulemaking docket in support of such change.

But as a matter of basic fairness, the requirement for a more stringent medical qualification should only be made prospectively and not retroactively. We recommend that incumbent drivers be grandfathered in as long as they continue to perform their jobs in a safe manner. There is sufficient precedent for this approach especially as it relates to equipment regulations, and to do less for a person who is trying to earn a living to support his or her family and make a pension, I think would be certainly unfair.

Secondly, in response to the question on antilock brakes and related braking issues, we share your committee's interest in this important matter. Our organization has been a strong proponent of antilock brakes since 1973. The system is technologically feasible and has been for many years. Anyone that has driven combinations as I have can appreciate being able to brake a unit without the fear of a jackknife.

I was encouraged recently by Freightliner's announcement they intend to start offering antilock brakes on their trucks in September of this year with a three year, 300,000 warranty on all parts and labor. We, therefore, commend the manufacturer and applaud this committee for their efforts to encourage DOT to promulgate a regulation.

Turning to the on-board computers and monitoring devices, we are considerably less enthusiastic about the question of on-board computers and other monitoring devices. Unlike the brake issue, this is not an area where DOT can be criticized for inaction. The Office of Motor Carrier Standards looked at this issue only just a few months ago at the request of the Insurance Institute for Highway Safety. Last December the OMCS specifically declined to initiate rulemaking based on what we think are sound, well-considered reasons, and after careful consideration of the arguments and documentation put forward by the Insurance Institute.

Telling the Office of Motor Carrier Standards to take a second look simply because some people disagree with the conclusions they reached on it last December seems to us to be an unwise case of trying to micro-manage the agency and second-guess the truck safety professionals at DOT.

Thirdly, turning to the proposal to create a separate motor carrier administration, I think in principle we support legislative efforts to make DOT more responsive, more efficient and more effective in regulating motor carrier safety. However, we have serious doubts that the approach taken by S. 747 is the best way to accomplish this.

In our view one of the biggest problems in truck safety regulation is the lack of coordination between the government agencies. NHTSA, on the one hand, sets the standards for new equipment, while the Office of Motor Carrier Safety decides separately what safety standards will be enforced at the roadside. Too often the two agencies aren't singing from the same songbook.

A good example of this was the front axle brake, which was only recently straightened out. For years NHTSA required a truck to be manufactured with front brakes, but once it was on the road, the carrier was permitted to remove the brakes.

Another example was back in the 1970's with the FMVSS 121 brake standard in which NHTSA mandated and BMCS refused to promulgate a regulation requiring that they be maintained.

To us it makes perfect sense to put all of the safety regulation under one agency, but curiously this is the one thing that S. 747 would fail to do. If the committee does decide to move ahead toward creation of a motor carrier administration, we think that this is a perfect opportunity to address an important area that has been neglected far too long. And that is the worker's health and safety.

OSHA views itself as pre-empted because of DOT's authority. It is our view that DOT lacks the expertise and does not have the enforcement structure to effectively protect the health and safety of the driver. If a motor carrier administration is created, it should include a separate deputy administrator specifically for occupational health and safety with authority for both standard-setting and enforcement.

A closely related matter is the right of employees to file complaints or to refuse unsafe work. We were very pleased by the Supreme Court's recent decision which essentially upheld the constitutionality of the approach taken in section 405 of the Surface Transportation Act of 1982. The Teamsters Union worked very hard to convince Members of Congress of the soundness of that approach to worker protection.

However, I think it is important, Mr. Chairman, to point out that section 405 only pertains to equipment issues. We urge the committee to act now to expand this protection to all motor carrier safety matters.

Finally, Mr. Chairman, we would like to renew a point that we had raised in previous appearances before this committee, and that is the increasingly important role that the shipper plays in motor carrier safety. I believe the time is past due for congressional action. As you consider the Truck and Bus Safety Act of 1987, I would encourage you to address this growing problem and place some responsibilities on the shippers and brokers. I would invite you to review our entire statement and recommendations on this point.

Thank you.

[The statement follows:]

STATEMENT OF R. V. DURHAM, DIRECTOR OF SAFETY AND HEALTH FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. Chairman, my name is R. V. Durham. I am Director of Safety and Health for the International Brotherhood of Teamsters. On behalf of our General President Jackie Presser, I want to thank the Committee for this opportunity to come before you to discuss a number of truck safety issues of importance to our members:

COMMERCIAL ZONE EXEMPTION

The Teamsters Union has for some time advocated an end to the commercial zone exemption with respect to the Federal Motor Carrier Safety Regulations. We are particularly concerned about the thousands of trucks operating within commercial zones which are in unsafe operating condition. As you are probably aware, the Federal Highway Administration will be issuing a proposed regulation soon that, hopefully, will address this problem. But we certainly welcome the interest and support expressed in S. 861. It is our understanding, the Department of Transportation has

this on their priority list and should be able to complete their work in less time than the proposed legislation.

We also welcome the recognition in S. 861 that it is desirable to provide a "grandfathering" provision to cushion the impact of doing away with the commercial zone exemption on people who cannot meet all of the stringent physical and medical requirements laid out in the Federal Motor Carrier Safety Regulations, but who have nonetheless proven themselves to be good, careful, safe drivers over years of work within a commercial zone. We see it as a question of basic fairness that you should not impose these requirements retroactively on these people who have built solid careers and supported their families in reliance on the understanding that these medical rules would not apply to them.

I would suggest, though, that the conditions for grandfathering, as presently drafted, are more stringent than what is really needed to make sure that you are only protecting people who have proven themselves to be safe, careful drivers. Even the most careful truck driver in a commercial zone is likely to get at least one ticket for something more than a parking violation over a three-year period. Putting that tight a restriction on the grandfathering—and then canceling the grandfathering if a driver gets a ticket even ten years down the road—is almost like not having a grandfather clause at all.

Mr. Chairman, as I said before, this is a question of basic fairness. Time and time again, DOT has seen fit to grandfather equipment when it changed its rules, without putting any conditions on that grandfathering. We feel strongly that a person who is out there trying to earn a living to support his or her family and make a pension, deserves at least the same consideration.

BRAKES

S. 861 would also direct the Secretary of Transportation to initiate rulemaking on anti-lock brakes and related braking issues within three months after enactment. We support this. We understood and share your Committee's interest and concern on this important matter. However, we think that, in the long run, it is unwise for the Congress to try to write laws that are so detailed and specific that they take the place of the regulations you wish DOT would promulgate. With all due respect, you lack the time and the resources to carefully weigh all of the evidence and make the kind of informed decisions that DOT is capable of making.

There is absolutely no doubt that anti-lock brakes and related braking issues are among the most important truck safety matters that DOT should be addressing. This was one of the first issues that I tackled when I was appointed Safety and Health Director of the Teamsters 14 years ago. It has been high on our agenda almost continuously ever since.

As doubles and longer combination become more and more common on our nation's highways, anti-lock braking systems become increasingly important.

It has been well established that it is technologically feasible to put braking systems on heavy trucks that will enable them to stop in a shorter distance and stay within their lane of travel. The maintenance and reliability questions that were raised by opponents in the 1970's have long been resolved. In fact, we understand that truck manufacturers like Volvo and Mercedes-Benz, which build many of the heavy trucks in this country today, regularly sell anti-lock systems on the trucks they build in Europe. In addition, Freightliner has announced it will start offering anti-lock brakes on its trucks in September of this year. This manufacturer is also backing the system with a 3-year/300,000-mile warranty on all parts and labor. We, therefore, applaud this effort by the Congress to encourage DOT to promulgate a regulation.

ON-BOARD COMPUTERS AND OTHER MONITORING DEVICES

We are considerably less enthusiastic about the question of on-board computers and other monitoring devices. Unlike the brake issue, this is not an area where DOT can be criticized for inertia. The Office of Motor Carrier Standards looked at this issue only a few months ago at the behest of the Insurance Institute for Highway Safety. Last December, OMCS specifically declined to initiate rulemaking, based on what we think are sound, well-considered reasons and after careful consideration of the arguments and documentation put forward by the Insurance Institute. Telling the Office of Motor Carrier Standards to take a second look simply because some people disagree with the conclusions they reached only last December seems to us to be an unwise case of trying to micro-manage the agency and second-guess the truck safety professional there. We do not think that this degree of intru-

sion into the day-to-day decision-making of the Office of Motor Carrier Standards is well-advised.

MOTOR CARRIER ADMINISTRATION

Back in March, Chairman Hollings introduced S. 747. Co-sponsored by several members of this Committee, to create a separate Motor Carrier Administration.

In principle, we support legislative efforts to make DOT more responsive, more efficient, and more effective in regulating motor carrier safety. However, we have serious doubts that the approach taken by S. 747 is the best way to accomplish this.

In our view, one of the biggest problems in truck safety regulation is that NHTSA sets the standards for new equipment, while the Office of Motor Carrier Safety decides separately what safety standards will be enforced at the roadside. Too often, the twain do not meet. A good example of this was the front axle brake issue, which was only recently straightened out. For years, NHTSA required a truck to be manufactured with front brakes; but once it was on the road, the carrier was permitted to remove the brakes.

To us, it makes perfect sense to put all of this safety regulation under one roof: But curiously, this is the one thing that S. 747 goes out of its way to avoid doing.

On the other hand, there are other things that would—or could—be brought under this proposed Motor Carrier Administration that do not seem to make sense. For example, as we read the bill, this new administration could pick up the regulation of hazardous materials transportation by truck from the Office of Hazardous Materials Transportation in the Research and Special Programs Administration. Separating this from other modes of hazardous materials transportation would create regulatory chaos.

Also, this new administration apparently could inherit NHTSA's safety research and statistical functions pertaining to trucks and buses. This does not make sense either.

If the Committee does decide to move ahead toward creation of a Motor Carrier Administration, we think that this is a perfect opportunity to address an important area that has been neglected far too long: Worker's health and safety. OSHA views itself as pre-empted because of DOT's authority. It is our view that DOT lacks the expertise, and does not have the enforcement structure to effectively protect the health and safety of the driver. If a Motor Carrier Administration is created, it should include a separate Deputy Administrator specifically for occupational health and safety, with authority for both standard setting and enforcement.

A closely related matter is the right of employees to file complaints, or to refuse unsafe work. We were very pleased by the Supreme Court's recent decision which essentially upheld the constitutionality of the approach taken in Section 405 of the Surface Transportation Act of 1982. The Teamsters Union worked very hard to convince Members of Congress of the soundness of that approach to worker protection.

However, I think it is important to point out that Section 405 only pertains to equipment issues. We urge the Committee to act now to expand this protection to all motor carrier safety matters.

Finally, Mr. Chairman, I want to bring up one point that I have raised in previous appearances before this Committee. That is the important role that the shipper plays in motor carrier safety. A lot of the pressure to violate hours-of-service and other safety regulations comes from the shipper. A lot of the incentive—especially on independent operators and small companies—to postpone costly maintenance and run unsafe equipment, sometimes with poorly qualified drivers, is the result of economic pressures by shippers permitted by deregulation looking for the absolute lowest cost per mile, without any concern about the condition of the truck or driver and the potential hazards to the motoring public. It is time for this Committee to put forward legislation which holds both the carrier and the shipper accountable and to ensure the highest level of compliance with our rules, regulations, and laws which are designed to promote highway safety. A good start would be to require the shipper to determine if the carrier is a "fit" carrier. For example, does the carrier have the appropriate permits and levels of liability of insurance to haul the goods. Add to that criminal sanctions against the shipper or broker that requests or requires the carrier and/or driver to violate laws and regulations governing hours of service, overloading and other serious offenses.

Mr. Chairman, I want to thank you for this opportunity to present the views of the International Brotherhood of Teamsters on these important matters. I will be happy to answer any questions that you may have.

Senator EXON. Thank you.

Mr. O'Connell, you worked very hard to stay within your time constraints. Is there anything you care to add to your opening statement or had you finished your comments?

Mr. O'CONNELL. I was very close to concluding, Mr. Chairman.

Senator EXON. I didn't mean to cut you off, and we have gone over the time I think on most of the witnesses. So, I will be glad to recognize you for a few additional moments if you could wind up.

Mr. O'CONNELL. Thank you, sir.

Actually this has worked out almost as a script because I would like to read to you a quote with reference to the driver training issue from the National Transportation Safety Board, on which I would like to conclude. The National Transportation Safety Board stated: "When a person is misled into enrolling into an expensive but worthless driver training program, more is lost than that person's time and money. The opportunity also is lost to produce a qualified, safe truck driver." And OOIDA would proffer that this opportunity is also lost if the driver receives no training at all.

Given the normal turnover in the trucking industry and the expected 17 percent growth in the number of persons employed in this occupation that has been predicted by the Bureau of Labor Statistics, the training of entry level drivers represents a significant opportunity to make a real gain in the area of highway safety.

The Professional Truck Driver Institute of America is in the final stages of developing a program that will vastly improve driver training. The Association would encourage this committee to review the work of the Institute and to consider legislation in this area.

Thank you.

Senator EXON. Thank you.

Mr. Donohue, although your organization strongly supports S. 747, as I understand it, you are opposed to section 3 which, of course, would require the Secretary of Transportation in consultation with the Chairman of the ICC to review and report to Congress on which ICC activities could be more efficiently performed by the motor carriers administration as proposed in S. 747.

Can you further explain the specific reasons for your opposition to this section?

Mr. DONOHUE. Yes, sir, I can.

First of all, it is a very short time frame after the passage of the bill that the Secretary of Transportation, who has very clear views on the matters of economic regulation and safety, would meet just with the Chairman of the ICC, who also has some very clear and stated views on that subject. And I think we would be, if I might say so with all respect, putting the fox in the chicken coop.

We would like to suggest that the proper way to do this is right before this committee where normal oversight hearings are held on the conduct of the DOT and its service to the surface transportation industry in this country. Not to allow two individuals who have strong views—and by the way, by the time they get around to it, it may be two other individuals. So, this is not a personal matter—to make those determinations on behalf of the total industry, bus and truck, and on behalf, I might say, of the Congress.

The other matter. I think if, in fact, you do not eliminate that section, there certainly would have to be a review between the Sec-

retary of Transportation and all of the commissioners of the ICC, there only being five of them because, as you know, they have traditionally over the years split their votes. And I think it would be in our best interest, if we cannot, eliminate it, to have the review between the Secretary and the Commission, not the Secretary and just the Chairman of the Commission.

Senator EXON. Mr. O'Connell, in your written testimony I note that you mentioned the existing modal administrations within DOT are not well integrated in your opinion. But if all modal administrations are not consolidated, a motor carrier administration must be created.

Could you amplify or explain briefly what functions you believe should be consolidated while affording the motor carrier industry equal representation?

Mr. O'CONNELL. We believe that the vehicle standards, the inspection standards, the hazardous material standards should all be consolidated within one agency.

We have as a trade association a unique problem in that we represent as subcontractors to private carriers and regulated motor carriers. Thus, have interesting regulatory problems related to safety. We would like to have an office within the motor carrier administration that could address those problems, and if I may comment, specifically in the hours of service area.

OOIDA is opposed to the provision in S. 861 with regard to on-board monitoring devices because we think that much more can be done on hours of service by looking at the economic forces among shippers and carriers and brokers that force drivers to drive longer hours. Those issues are not going to be solved by an on-board mechanical device. OOIDA feels that those are the types of issues that should be addressed within the motor carrier administration.

Senator EXON. Mr. Durham, let me ask you this question so we can get more on the record from your point of view and principle.

You stated in your written testimony that one of the biggest problems in the truck safety regulation is that NHTSA sets the standards on new equipment while the Office of Motor Carrier Safety decides separately what safety standard will be enforced on the roadside. But then you suggest that it does not make sense that a new motor carriers administration inherit NHTSA's safety research and statistical function pertaining to trucks and buses. I am not sure that I fully understand what you are getting at there. And could you maybe clarify your position?

Mr. DURHAM. Yes. Mr. Chairman, I think for several years we have expressed support for pulling together all of the truck safety effort together under one agency. And the bill that is being considered does not do that.

The problem that we have been faced with over the years is you have OSHA sitting over there basically and saying that we are not going to promulgate and enforce regulations on drivers because that is DOT's authority. But unfortunately, the thrust of DOT's effort has been to look at the motoring public and highway safety and not the safety of the driver or the operator of the equipment.

And we think it makes a lot of sense, rather than looking at a separate administration, but to look at a consolidated effort in this truck safety area. And that would include pulling together the

health and safety standards rulemaking process for the drivers, the NHTSA promulgations as far as regulations of the equipment, and BMCS or now the OMCS' enforcement of those regulations.

I guess I differ with one of the panelists. When you get into the area of the hazardous materials, I think it would be a mistake to separate that out from RSPA and put that under because then you would have a duplication of effort because the shippers are not only shipping by truck, but they are shipping by rail and air.

So, it doesn't make a lot of sense just to move titles and blocks around, but I think there could be some very meaningful change made. And we have made that argument over the years. If we could somehow consolidate all of the truck safety effort under—and that would include R&D and the total picture.

Mr. DONOHUE. Mr. Chairman, can I just comment on Mr. Durham's——

Senator EXON. Certainly.

Mr. DONOHUE. I think a lot of the things that Mr. Durham said today deserve very serious consideration. His comments on shipper responsibility couldn't be better taken, and we ought to move ahead on that. And I agree with him about the whole question of grandfathering-in for a long period of time drivers who are affected by this legislation.

As a matter of fact, I even agree in principle about his concern about why don't we put all the safety things in one place. But as you know so well, this is a place where compromise is the way you get something done. And I think to try and put NHTSA in this package at this time would leave us arguing about this thing long after I am far grayer than I am now, if that is at all possible.

But I think if we move forward to put all the rest of the items together in a motor carrier administration that operates at the level of the other administrators who meet with the Secretary, who has the visibility to come forward to the Congress on their own, not along with Mr. Haseltine and a whole group of other people, and has the ability to deal with the Congress, the press and the industry at a much higher level, I think we will take the first step towards the objective that Mr. Durham has expressed. And I hope over time, because we have taken that first step, that we will be able to drive those safety issues more closely together.

One of our fellows up here a few years ago said you can't cross the creek in two jumps. If we can do it one step at a time, I think we would be much better off.

Senator EXON. I have two safety questions that I would like to ask each one of you to comment on briefly or expand your comments on. I guess you have all touched on them.

Concerns have been raised that there is a widespread abuse of the Federal hours of service requirements that drivers record in their log books. What suggestions, short of initiating a rulemaking procedure on the use of on-board monitoring devices, do you have to address problems raised by driver fatigue, excessive speed and falsify of records?

We will start with you, Mr. Durham.

Mr. DURHAM. Well, I think we have a good regulation in place on hours of service. The problem is enforcement. There is a limit to 10 hours driving. You must have 8 hours statutory rest. There is a

limit of 60 hours in 7 days on duty or driving. The problem though is the enforcement area. And where we are dealing with a legitimate carrier that has an interest in safety, they are enforcing the hours of service and discipline the drivers if they violate those hours of service.

But unfortunately we are dealing with an industry out there today that is very difficult to police under deregulation.

And the suggestion that a monitoring device be put on the truck to be mandated is not the answer in our view. The computer is more to monitor productivity than it is the safety. The safety is only going to be monitored through enforcement.

And we do have some problems where the drivers are carrying two sets of logs, and I think through the roadside inspections it has been established that approximately 12 percent of the drivers are found to not even have logs or to have duplicate logs.

And that is an area that concerns us because the members that we represent that are working for the carriers that are trying to do a job and address safety—they are competing against these companies that are giving their drivers two sets of logs and telling them to drive 80, 90 and 100 hours.

And so, it is a serious problem. I guess where I have a problem is I don't understand where putting a computer on a truck—I agree I guess with some of the other comments that, yes, computers are coming. And computers are the thing in the future, and they will be very helpful in monitoring the driver's activities as far as the rpm's, their stops and so forth. But that is more in the labor management area than it is I think in the governmental area.

What we need on the log book violation is enforcement. And the only way we can get the enforcement is to get also to those shippers. The shippers are playing such an important role in this total truck safety picture today, Mr. Chairman.

Senator EXON. But the argument that you just advanced and the concerns that you expressed—doesn't that argue for on-board monitoring devices to help? It isn't going to hurt safety to have those on there.

Mr. DURHAM. Well, it doesn't get at the problem because the problems that are being created are those entities that are not enforcing the current regulation, the log book requirements.

For an example, with all respect to my friend of the owner-operators who is sitting beside me here, how does an individual who is the employee and the employer police himself. And with the computer, the benefit of the computer is to be able—for the employer when the driver comes in at the completion of his trip, is to look at their computer and see if he was exceeding the speed limit, or if he overstayed his amount of time at a truck stop, or if he violated the hours of service. And where you have the legitimate established carrier, I would agree with you that it can be used as a very excellent tool. But again, that should be left up to I think to the industry and labor to work out.

Senator EXON. Mr. O'Connell, would you comment please?

Mr. O'CONNELL. Yes, sir. The president of our association likes to remind people that owner-operators are the only small businesses in the country that are penalized for working too hard with regard to the hours of service regulations.

We believe that there are strong economic forces at work in this area. As we have heard at this hearing and at previous hearings, shippers are simply pushing carriers to deliver on time and deliver in shorter time spans. Economic competition has forced that issue.

In addition, there are carriers—and I hasten to add none of them members of ATA—but there are carriers that are engaged in the practice of forcing their drivers to exceed the hours of service requirements as a regular course of action.

I recently talked to a driver with a major national carrier, an owner-operator, who was simply told that she would have to create what is called a "ghost log" indicating two people in the cab of the truck so that the carrier could double the number of hours for one operator. That was on the instruction of the carrier. Right now we are considering how to deal with that violation.

This is an example of the economic forces that are causing drivers to exceed the hours of service. And that should be looked at.

There is no agreement among drivers with regard to the hours of service as to the regulations themselves. Owner-operators argue that the current number of hours of service are insufficient. The teamsters might argue that the current hours of service are sufficient. The regulations themselves were established in the 1940s when there were, for example, manual shifts in trucks and they were much more difficult to drive than today's equipment.

OOIDA notes that in the State of California, with no deterioration in truck safety, intrastate drivers are permitted to drive in excess of the Federal hours of service regulations.

OOIDA would call for a look at the whole issue of hours of service because, as Mr. Durham points out, and he points out correctly, there is no one to supervise an owner-operator's hours of service. An on-board monitoring device or log book would present a problem in that regard. What we need to reach in this area is a consensus among drivers, shippers and carriers as to what constitutes the safe operation of a truck, and we need to move forward as an industry. Currently there is no agreement among owner operators, and that segment of the industry currently accounts for between a third and a half of all of the trucks that are operated in the United States. And if Mr. Durham is correct, and I believe that he is, that owner operators have no one supervising their hours of service, then we have a problem out there that we need to address from the driver perspective as well. There needs to be consensus among the drivers that these hours of service are reasonable, realistic and that they should be obeyed.

Senator EXON. Mr. Donohue.

Mr. DONOHUE. Mr. Chairman, I will be very brief.

I agree with both gentlemen that there needs to be some pressure on those small groups of unscrupulous shippers who require truckers to drive overload trucks for longer hours than they should. We are negotiating and visiting with the shippers on a whole series of projects right now to take us in that direction. We may come to a point now or later on that legislation may be required.

I think the second factor is that the single national driver's license that will be implemented over the next few years and will contribute to better enforcement so that it will be more and more

difficult to run additional hours for fear that you will lose your license.

Finally, I think the use of computers has a role in this thing. And I think that we need to work with DOT to figure that out. But Mr. Durham raises the question of what do you do with the independent owner-operators. I raise the question of why do we spend the millions of dollars it would take to put it in LTL trucks that might drive—for example, Roadway might have a truck going from Albany, New York, to Bethlehem, Pennsylvania and back. And everybody knows where it goes, how long it takes and when it gets back. And it is managed every day. And it is leaving, and it's arriving and it's returning. I am not sure we need to spend the money in that truck.

What we are saying, every one of us, is that we are ready to work tomorrow, today, with the DOT on the research, exploration and the development of this technology, but it ought not to be a rulemaking. It ought not be mandatory.

Senator EXON. Mr. Donohue and Mr. O'Connell and Mr. Durham, thank you very much for your important testimony here. And you are excused.

I will call the panel headed panel No. 2 next: Mr. Douglas Turner, chairman of the safety committee of the American Bus Association, Mr. Wayne J. Smith, the executive director of the United Bus Owners Association.

Gentlemen, please proceed. We will call first on Mr. Turner.

STATEMENT OF DOUGLAS TURNER, CHAIRMAN, SAFETY COMMITTEE, AMERICAN BUS ASSOCIATION

Mr. TURNER. Thank you, Mr. Chairman. Mr. Chairman and Members of the subcommittee, I am Douglas Turner, director of safety for Bonanza Bus Lines in Providence, Rhode Island.

I am appearing here today as chairman of the safety committee of the American Bus Association. One of ABA's highest priorities is to promote safe bus operations on our Nation's highways.

Because of our emphasis on safety, ABA is delighted to be here today to offer its support, both for S. 747 and S. 861, since both of these bills contain proposals that should enhance Federal safety regulations.

We support the creation of a Motor Carrier Administration within DOT, because it would tend to increase the focus on effective motor carrier safety, and should provide a structure within which the motor carrier safety legislative mandates of the last four years can be effectively carried out.

At present there are many dedicated, competent people working for the Associate Administrator for Motor Carriers. But the fact is that they simply have not been able to carry out all of their responsibilities in a timely manner.

A large part of the problem is that there has been an unprecedented amount of motor carrier safety legislation requiring extensive administrative action. Few if any of these tasks mandated by Congress in the Motor Carrier Safety Act of 1964 have been completed.

We are very concerned about this lack of timely action, because many of these requirements are very important to a safety enforcement program. The Commercial Motor Vehicle Safety Act of 1986 provides DOT with extensive new motor carrier safety regulatory responsibilities that will extend over the next decade.

DOT is to be congratulated for meeting its July 1, 1987 deadline for rules implementing the single driver license requirement.

However, this deadline was met only by avoiding a formal rulemaking proceeding, and by posing for future consideration most of the critical implementation questions that were raised. CMVSA still presents DOT with a staggering regulatory burden.

Another issue that is taking a great amount of time and effort at DOT is mandatory drug testing. It is clear that either by legislation or administrative action, mandatory drug testing will remain a subject requiring a great deal of DOT time and effort.

As DOT has fallen behind in its implementation of its motor carrier safety statutory mandates, its preoccupation with these issues precludes it from focusing in a timely manner on safety-related issues raised by the public or industry.

For instance, there is no way for DOT to monitor on an ongoing basis whether bus companies are complying with the minimum insurance standards. To correct this problem, ABA filed with DOT a petition for rulemaking, proposing that DOT require that bus operators keep a copy of their insurance endorsement in each vehicle operating in interstate commerce.

This simple requirement could vastly improve DOT's ability to enforce Federal insurance standards. Yet no action has been taken on the ABA proposal.

We are hopeful that the creation of the Motor Carrier Administration will help to end the regulatory logjam. But the creation of a new structure itself will not do the job. There needs to be a careful Congressional oversight of these activities to ensure that these important programs get properly and expeditiously implemented.

ABA also favors the examination of whether certain ICC motor carrier regulatory functions should be transferred to DOT. At present there appears to be unnecessary duplication in insurance regulation.

The ICC and DOT maintain separate regulations, and require separate forms to show evidence of compliance with the same motor carrier insurance standards.

Turning to the question of removing the commercial zone exemption, ABA supports the provision of S. 861 that would accomplish this result.

There simply is no reason why a bus operating a commuter service, solely within a commercial zone, should be exempt from the Federal safety regulations, while the bus providing commuter service at points outside of a commercial zone will be covered by the regulations.

Furthermore, if the commercial zone exemption is removed, it should be removed across the board for both privately owned bus carriers providing commuter or charter service, and public transit agencies providing commuter or other services.

A defective bus or an unqualified driver is just as dangerous, whether the service is being provided by Washington Metro or by

one of the private operators in the Washington area. The public can only be protected by full removal of the exemption.

We urge the prompt passage of the legislation repealing the commercial zone and inter-city exemptions from Federal safety regulations for buses as well as trucks.

Finally, we urge the committee to take this opportunity to require DOT to extend the Federal motor carrier safety regulations to private passenger carriers, such as those owned and operated by churches, colleges, and universities, social groups, et cetera, as well as the common carriers of passengers, either publicly or privately owned.

Because of the vast numbers of private carriers of passengers and the need to ensure that they operate safely on the Nation's highways, Congress in the Motor Vehicle Safety Act of 1984 included them in the definition of a commercial motor vehicle.

Despite this Congressional action, DOT still has not modified the FMCSR to include private carriers of passengers. This is an ideal opportunity for Congress to correct this administrative shortcoming and to require DOT to address the issue.

This could be accomplished by a provision requiring the Secretary of Transportation to, by regulation, amend the regulations contained in parts 390-396 of Title 49, Code of Federal Regulations, to include within such regulations "private carriers of passengers by motor vehicles."

We urge the committee to include this language in any bill that it reports out on this subject. We appreciate the opportunity to comment on these issues, and I would be happy to answer any questions that you may have.

[The statement follows:]

STATEMENT OF DOUGLAS TURNER, CHAIRMAN, SAFETY COMMITTEE, AMERICAN BUS ASSOCIATION

Mr. Chairman and members of the Subcommittee, I am Douglas Turner, Director of Safety for Bonanza Bus Lines in Providence, Rhode Island. I am appearing here today as Chairman of the Safety Committee of the American Bus Association (ABA) to present the ABA's view on the proposed Motor Carrier Administration, the proposed removal of the partial commercial zone exemption from federal motor carrier safety regulations, and related safety issues.

ABA is the national trade association of the intercity bus industry. We have approximately 700 operator members, including bus companies that provide intercity regular route, charter and tour, express commuter and airport bus service.

One of ABA's highest priorities is to promote safe bus operations on our nation's highways, and ABA has taken a number of steps to accomplish this including a requirement that ABA members must maintain a "satisfactory" safety rating from DOT and that all members comply with the federal minimum insurance standards. In addition, ABA has developed a very comprehensive safety program that all ABA members participate in.

Because of our emphasis on safety, ABA is delighted to be here today to offer its support both for S. 747 and S. 861 since both of these bills contain proposals that should enhance federal safety regulations. But we must emphasize that truly effective federal safety regulations and implementation of safety legislation can only be achieved through adequate personnel funding at the Federal Highway Administration. We believe that this is a critical issue that the Committee should explore in its deliberations.

S. 747 would establish a Motor Carrier Administration in DOT, which would be responsible for DOT safety regulations and enforcement and for conducting research, planning and programming relating to the motor carrier industry. We support the creation of a Motor Carrier Administration within DOT because it would tend to increase the focus on effective motor carrier safety and should provide a

structure within which the motor carrier safety legislative mandates of the last four years can be effectively carried out. At present, there are many dedicated, competent people working for the Associate Administrator for Motor Carriers, but the fact is that they simply have not been able to carry out all of their responsibilities in a timely manner.

A large part of the problem is that there has been an unprecedented amount of motor carrier safety legislation requiring extensive administrative action. In the Motor Carrier Safety Act of 1984, Congress mandated extension of motor carrier safety regulations to include private motor carriers of passengers, the reclarification within 18 months of the federal motor carrier safety regulations; review and preemption of state safety regulations that are unnecessarily stringent; establishment of an annual inspection system for commercial motor vehicles and mandated reciprocity for such inspections; a safety fitness certification process to be established in coordination with the Interstate Commerce Commission (ICC), as well as the conduct of various safety related studies.

Few, if any, of these tasks have been completed. We are very concerned about this lack of timely action because many of these requirements are very important to safety enforcement program. We are particularly concerned about the DOT's failure to include private motor carriers of passengers, such as churches, colleges and universities, and social groups, in the class of motor carriers covered by the federal motor carrier safety regulations. DOT figures indicate that there are far more private passenger motor carriers than there are for-hire passenger motor carriers, and it makes no sense for these carriers to remain unregulated.

The next major piece of motor carrier safety legislation was the Commercial Motor Vehicle Safety Act of 1986 (CMVSA). CMVSA provides DOT with extensive new motor carrier safety regulatory responsibilities that will extend over the next decade. DOT's responsibility will include enforcing the single driver license requirement for commercial motor vehicle operators; developing the standards for the uniform commercial drivers license and the testing of commercial motor vehicle operators; monitoring state compliance with the new CDL requirements; and establishing an information clearinghouse to enforce the single license requirement. DOT is to be congratulated for meeting its July 1, 1987 deadline for rules implementing the single driver license requirement and related requirements. However, this deadline was met only by avoiding a formal rulemaking proceeding and by posing for future consideration most of the critical implementation questions that were raised. CMVSA still presents DOT with a staggering regulatory burden.

Another issue that is taking a great amount of time and effort at DOT is mandatory drug testing. Of course, the Senate Commerce Committee has already reported out a bill that would require mandatory random and periodic drug testing for commercial motor vehicle operators, and DOT reportedly is considering promulgation of its own rules on this subject. It is clear that either by legislation or administrative action, mandatory drug testing will remain a subject requiring a great deal of DOT time and effort.

As DOT has fallen behind in its implementation of its motor carrier safety statutory mandates, its preoccupation with these issues preclude it from focusing in a timely manner on safety related issues raised by the public or industry. For example, maintenance of adequate insurance by bus companies for the protection of the public goes hand-in-glove with safe operation. In this regard, the Bus Regulatory Reform Act required bus companies operating in interstate commerce to maintain at least $5 million in coverage. DOT's enforcement mechanism for this requirement is entirely inadequate. Bus operators are required only to maintain a copy of an insurance form at their principal place of business. There is no way for DOT to monitor on an ongoing basis whether bus companies are complying with the insurance minimum standards.

To correct this problem, ABA filed with DOT a Petition for Rulemaking proposing that DOT require that bus operators keep a copy of their insurance endorsement in each vehicle operating in interstate commerce. Thus at least during annual or roadside inspections, enforcement personnel would be able to ascertain whether or not a carrier is maintaining adequate insurance. This simple requirement could vastly improve DOT's ability to enforce federal insurance standards, yet no action has been taken on the ABA proposal.

We are hopeful that the creation of a Motor Carrier Administration will help to end the regulatory logjam, but the creation of a new structure itself will not do the job. There must be a careful analysis of the personnel needs of the new agency to ensure that the various congressional safety mandates of recent years are carried out. Moreover, there needs to be careful congressional oversight of these activities to ensure that these important programs get properly and expeditiously implemented.

ABA also favors the examination of whether certain ICC motor carrier regulatory functions should be transfered to DOT. At present, there appears to be unnecessary duplication in insurance regulation. The ICC and DOT maintain separate regulations and require separate forms to show evidence of compliance with the same motor carrier insurance standards. Similarily, both DOT and ICC have jurisdiction over the issue of when a motor carrier can adopt a self-insurance program. Fortunately, DOT has taken the position that it will not duplicate work already done by the ICC and will accept self-insurance authority from the ICC as evidence of adequate insurance. But there really is no reason at all for both agencies to have regulatory jurisdiction over motor carrier insurance and self-insurance.

Turning to the question of removing the commercial zone exemption, ABA supports the provisions of S. 861 that would accomplish this result. S. 861 would remove the exemption from most provisions of the Federal Motor Carrier Safety Regulations for operations conducted in a municipality or within the commercial zone of a municipality. The exemption removal would apply to bus common carriers (both publicly and privately owned) and to common and private carriers of property.

ABA supports the removal of the commercial zone exemption from the FMCSR as it relates to buses for basically the same reasons that its removal is being proposed for trucks. There simply is no reason why a bus operating a commuter service solely within a commercial zone should be exempt from the federal safety regulations, while a bus providing commuter service to points outside of a commercial zone would be covered by the regulations. Taking the Washington, D.C. commercial zone as an example, why should a communter bus from Washington, D.C. to Reston be exempt from the regulations, while a commuter bus from Washington to Manassas is covered by the regulations? Interstate bus operations should be fully covered by the federal safety regulations no matter how long the distance being traveled. Defective brakes or an unqualified driver can be just as dangerous between Washington and Reston as between Washington and Manassas.

Furthermore, if the commercial zone exemption is removed, it should be removed across the board for both privately owned bus common carriers providing commuter or charter service and public transit agencies providing communter or other services. Here again, a defective bus or an unqualified driver is just as dangerous whether the service is being provided by Washington Metro or by one of the private operators in the Washington area. The public can only be protected by full removal of the exemption.

It should be noted that extending federal safety regulations to interstate transit services, both public and private, is consistent with the existing legislative and regulatory framework. Neither the basic enabling statue for DOT motor carrier safety regulation (49 U.S.C. § 3102) nor the federal motor carrier safety regulations (49 C.F.R. Part 390-399) exempts publicily owned or operated transit vehicles from DOT safety regulation. Moreover, the Commercial Motor Vehicle Safety Act (Public Law 99-570) applies its commercial motor vehicle operator requirements to all commercial motor vehicles, including public transit vehicles.

Indeed, transit related agencies themselves recognize the importance of compliance with the federal safety regulations in interstate commuter operations. Recently, the Washington Metropolitan Area Transit Commission filed a protest with the Interstate Commerce Commission, successfully seeking the revocation of the operating authority of a private commuter operator in the Washington area on the grounds that the operator was failing to comply with federal safety regulations, Docket No. MC-C-30001, "J&J Bus Service, Inc.—Investigation and Revocation of Certificates" (February 18, 1987). ABA believes that the decision was appropriate; unsafe interstate bus operations should not be allowed whether they are publicly or privately owned.

We urge the prompt passage of legislation repealing the commercial zone and intercity exemptions from federal safety regulations for buses as well as trucks. Finally, we urge the Committee to take this opportunity to require DOT to extend the Federal Motor Carrier Safety Regulations to private passenger carriers (such as those owned and operated by churches, colleges and universities, social groups etc.), as well as to common carriers of passengers, either publicly or privately owned.

At present, there is a serious discrepancy between truck regulation and bus regulation under the FMCSR. The term, "motor carrier", is defined as "a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle". 49 C.F.R. § 390.15. Thus, private carriers of property are covered by the regulations but private carriers of passengers are not covered. There is no reason why trucks operated by everybody from Sears to the local hardware store are regulated, but the buses used by the First Baptist Church or The University of Virginia for extended trips are exempt from regulation.

It is well established that there are far more private carriers of passengers than there are for-hire common carriers of passengers. Because of the vast numbers of private carriers of passengers and the need to ensure that they operate safely on the Nation's highways, Congress in the Motor Carrier Safety Act of 1984 included them in the definition of "commercial motor vehicle". Despite this Congressional action, DOT still has not modified the FMCSR to include private carriers of passengers.

This is an ideal opportunity for Congress to correct this administrative shortcoming and to require DOT to address the issue. This could be accomplished by a provision requiring the Secretary of Transportation to, by regulation, amend the regulations contained in parts 390–396 of title 49, Code of Federal Regulations, to include within such regulations "private carriers of passengers by motor vehicles". We urge the Commission to include this language in any bill that it reports out on this subject.

We appreciate the opportunity to comment on these issues, and I would be happy to answer any questions that you may have.

Senator EXON. Thank you, Mr. Turner. I will hold my questions and I will recognize Mr. Smith now.

STATEMENT OF WAYNE J. SMITH, EXECUTIVE DIRECTOR, UNITED BUS OWNERS ASSOCIATION

Mr. SMITH. Good morning, Mr. Chairman. I know that, in deference to the other witnesses and your schedule on the Senate floor, I will try to be brief this morning. I do have a full testimony that has been given to the committee.

I have been the executive director of the United Bus Owners of America for 16 years, and I want to congratulate Mr. Turner for his excellent testimony. I think we are in agreement on all of the issues that he raised in support of the legislation that is before your subcommittee.

The key word that I thought that Mr. Turner raised, and other members of the witness list, and even Senator Breaux, is the word "mandatory," and I think that we are greatly concerned about that word.

And I think that in any of the proposed legislation, or the legislation that is passed, if we can make sure that that word is deleted, I think it would be most helpful.

I would like to just spend a minute or so to look at the history of why we need a Motor Carrier Administration. I remember meeting with Secretary Volpe 16 years ago to talk to him about the motor carrier problems.

At that time, Secretary Volpe's interest was in roads, not the motor carrier area. Being a former road builder, his concerns were along those lines. And Senator Brock, being a former Secretary, remembers the times that he had to deal with the motor carrier area.

But at the time that he was a Secretary, Mr. Chairman, we had a regulated industry, both in the trucking and in the bus area, where the ICC played a much bigger role in the regulation of this industry.

But since the Secretary's time in the 1980s, we have gone through deregulation. In our industry alone, in 1983, we had around 1,800 bus companies. It exploded in 1985 to almost 3,600.

Also during the 1980s, under the leadership of Senator Danforth, we had more safety legislation passed in those few years than in the history of the motor carrier industry.

And with that continued emphasis of legislation being sent over to the Department of Transportation, the Federal Highway Admin-

istration five years ago set up a Motor Carrier Advisory Committee.

Three years ago I was appointed by the Secretary to serve on that Motor Carrier Advisory Committee. And for almost the first two years of serving on that committee, the Department talked to us and told us what they were going to do.

It was not until this last year that the Advisory Committee became a pro-active committee. Because we have 25 people from all various backgrounds of the motor carrier industry, and we were then able to assist the Department.

But we could see that it is very difficult to have an associate administrator with all of the energies and work that Mr. Landis displayed and recounted this morning to be then reported to an administrator of Federal Highway, and then possibly sent upstairs to the Secretary.

And in closing, Mr. Turner talked about the insurance area. Two years ago we had an insurance crisis in this country. And the motor carrier industry suffered.

But it was very difficult to get the Department of Transportation, through the Federal Highway Administration, to take some action, because of the various layers of activity of going to an associate administrator to an administrator to the Secretary.

So in closing, Mr. Chairman, I want to tell you that in the 16 years of spending on motor carrier activities, the time is now, and I hope that this legislation will pass and we will have a Motor Carrier Administration.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF WAYNE J. SMITH, EXECUTIVE DIRECTOR, UNITED BUS OWNERS OF AMERICA

INTRODUCTION

Mr. Chairman, members of the committee, my name is Wayne J. Smith. I am Executive Director of United Bus Owners of America (UBOA). UBOA was established in 1971 to represent the operating interests of bus company management. Today, UBOA boasts a membership of more than 1,600 motor coach companies throughout the United States and Canada. UBOA is dedicated to promoting the safety and integrity of its members and of the passenger motor carrier industry.

My purpose in coming before the committee today is to express UBOA's enthusiastic support for S. 747, as well as UBOA's support, with minor modification, of S. 861, the Truck and Bus Safety Act of 1987.

INDUSTRY OVERVIEW

Mr. Chairman, UBOA's members are engaged in charter, regular route, special operations and transit services. They are classified by the Interstate Commerce Commission (ICC) as class I, II, and III interstate and intrastate passenger motor carriers. According to the best estimates of the ICC, there are approximately 2,400 to 3,000 U.S. passenger motor carriers operating 25,000 motor coaches and employing more than 44,000 persons. In 1985, the last year for which these figures are available, American passenger motor carriers produced nearly 24 billion passenger revenue miles and had the best safety record of all modes of U.S. passenger transportation, .071 fatalities per 100 million passenger miles.

The American motor coach industry prides itself on its outstanding safety record, and industry members like Greyhound, Jefferson Lines, Peter Pan, Badger, and Hotard Coaches have taken leadership roles, setting the standards by which others in the industry are gauged.

Because of this keen sense of safety and customer concern, UBOA has promoted the interest of the industry through the development of the industry's first on-the-

road safety inspection and training programs. UBOA's industry insurance programs and operator assistance programs have help prevent minor mechanical and employee awareness problems from becoming major safety issues.

In addition, UBOA is a charter member of the Commercia Vehicle Safety Alliance. UBOA is a member of the Federal Highway Administration's Motor Carrier Advisory Committee, and UBOA actively participates in behalf of its members in virtually every commercial motor carrier initiative designed to promote safety, efficiency, and integrity in the industry.

It is for these reasons, Mr. Chairman, that United Bus Owners of America is pleased to come before this subcommittee today to express its opinion on the two measures under consideration.

S. 747, TO ESTABLISH A MOTOR CARRIER ADMINISTRATION

Throughout its life, Mr. Chairman, UBOA has been a leading advocate of economic deregulation in the passenger motor carrier industry. UBOA is satisfied with the deregulation which has occurred thus far at the Interstate Commerce Commission, but frankly would prefer that Congress finish the job and totally deregulate the economic activities of America's passenger motor carrier industry.

With economic deregulation, however, Mr. Chairman, has come a fragmentation of the federal government's oversight of the industry's safety regulation. Part of the oversight responsibility still lies with the ICC. Part of it lies within the Federal Highway Administration, and part of it lies within the jurisdiction of the states.

Recognizing the disparate nature of this oversight, and recognizing both the perceptual and practical problems this disparateness presents, UBOA joined with the American Trucking Associations and others concerned about motor carrier safety to seek a solution.

In analyzing the situation, we determined that the answer was not to reregulate the economic activities of the industry. The answer was in drawing stricter safety standards and developing the capability to administer and enforce those standards.

In an effort to be responsive to the industry's initiative, the Federal Highway Administration was designated within the Department of Transportation to be the lead agency in these matters. Various offices were established within the Highway Administration to address the different concerns of the industry and to develop motor carrier safety programs.

Over time, however, it was realized that motor carrier safety regulation was not the top priority of the Federal Highway Administration, and despite the repeated attempts of the Highway Administration to beef-up their efforts, the motor carrier industry still came away with the feeling they were playing second fiddle to other interests within the Highway Administration. Even more disconcerting to the industry was the realization that, even though the motor carrier industry was and is today the nation's largest transportation mode, it was and is a step-child in the Department of Transportation.

The maritime industry has its own office of administration.

The aviation industry has its own office of administration.

The railroad industry had its own office of administration. Even public transit agencies have their own office of administration.

But no where in the Department of Transportation, except as an adjunct function of the Federal Highway Administration, are the issues and concerns of the motor carrier industry—both trucking and busing—addressed.

Virtually everyday, you can pick up a newspaper or tune in a television or radio newscast only to encounter the gory details of a truck that killed, a driver that was arrested for drug use, or a bus that fell off the road. The motor carrier industry has become an easy target for sensational journalism and politically popular stump bashing.

Despite the efforts and the initiatives taken by the industry to press for strictrer safety standards and enforcement.

Despite the efforts and the initiatives taken by the industry to promote stricter licensing standards and enforcement.

Despite the efforts and the initiatives taken by the industry to produce better equipment and provide better training to its employees.

Despite all of these efforts and the initiatives the industry is perpetually characterized a group of crazed animals whose only concern is to get from point of origin to point of destination, make a profit and show absolutely no regard for the law or the lives of others on the highway.

A recent example of that kind of sensationalism is reflected in Secretary of Transportation Elizabeth Dole's announcement of the new commercial drivers license reg-

ulations when she said, "It is unconscionable that a truck or bus driver today can obtain several drivers licenses from different states, then hide bad driving records by distributing traffic violations among them." Her insinuation is that virtually every commercial vehicle driver is doing it, when, by the best estimates available to date, probably no more than 5 percent of all commercial drivers possess more than one commercial drivers license.

Mr. Chairman, on Page 20 of the July 6, 1987 "Transport Topics" there appeared an article by Donald P. Brown, Staff Safety Manager, Ryder Truck Rental, Inc. The title of the article was: "Beyond National Safety Programs, Carriers Must Make Own Efforts." We fully concur with Mr. Brown's contention. We have, at UBOA, been doing that for the past 16 years. We have been doing it without the full support and cooperation of the federal government, and I think we have done an outstanding job.

The industry has promoted a national safety program.

The industry has promoted greater awareness of the need for safe operations on the part of individual members.

And as the statistics I cited earlier indicate, the industry has promoted the best safety record of any mode of passenger transportation.

But now its time for the federal government to stop being an armchair critic and start being an on-field player.

Through the creation of Motor Carrier Administration within the Department of Transportation, I believe we can bring the federal government into a working partnership with America's motor carrier industry.

I believe we can develop the kind of working relationship and understanding that is necessary in order to effectively promote the nation's transportation policy and improve productivity for the nation's economy.

Finally, Mr. Chairman, I believe we can eliminate the perception which strikes fear in the hearts of the motoring public everytime they see a truck or a bus on the nation's highways, and make it possible for politicians to take cheap shots at the hard working, safety conscious men and women who keep America on the move, our nation's commercial truck and bus drivers. I urge the adoption of S. 747.

S. 861, THE TRUCK AND SAFETY ACT OF 1987

Now, Mr. Chairman, allow me to address the second measure under review by this committee today, S. 861, the Truck and Bus Safety Act of 1987.

S. 861 is the result of a series of unfortuante and tragic accidents which exemplify the very reasons our industry suffers the image it does, and why our industry has worked so strenuously to promote improved safety standards and practices.

We are all too aware of the pain suffered by the families of two Riverdale, Maryland teenagers whose car was crushed by a dump truck on November 17, 1986 as they say at a stop light waiting to proceed up a hill.

We are all too aware of the stories of commercial vehicles which operate in "commercial zones" and because of their limited operation are exempt from safety inspections and other safety regulations imposed on commercial vehicles operated on a larger intra- or inter-state basis.

We are all too aware of the lack of rationale for perpetuating this exemption; of the huge risk which this exemption possess to others on the roadways and highways of cities throughout America.

Because all of the benefits of implementing S. 861 are so obvious, and all the costs of failing to implement S. 861 are equally obvious, I will not dwell on this matter.

I would only ask the committee, Mr. Chairman, to consider as a part of this measure the elimination of the commercial zone exemption administered by the Interstate Commerce Commission as well.

The ICC's commercial zone exemption is as arcane and outmoded a regulation as the Department of Transportation's commercial zone exemption. The difference in the two is that DOT's exemption is for safety reasons. The ICC's is for economic reasons. The theory behind the ICC's exemption is to facilitate commerce in those areas where major markets overlap political jurisdictions. And, while on the surface that sounds all well and good, in practice it represents both a major competitive, as well as a safety problem, and for that reason ought to be abolished.

In the first place, the ICC has neither the willingness nor the ability to police the commercial zones it administers to ensure that their boundaries are not violated.

In the second place, particularly with regard to the U.S. border area with Mexico, the ICC's commercial zone exemption provides certain Mexican carriers a competitive advantage over U.S. carriers. The mexican government does not allow U.S. commercial carriers into their country, but the U.S. government does allow Mexican

carriers into this country. Frequently those Mexican carriers stray well beyond the commercial zone boundaries, engaging in commercial activities in competition with U.S. carriers without regard to any of the safety or economic regulations imposed on U.S. carriers.

In the third place, eliminating the safety exemption administered by DOT without eliminating the economic exemption administered by the ICC will only perpetuate, not irradicate the safety concerns sought to be addressed in S. 861. The loophole through which irresponsible operators in markets which overlap political boundaries are currently driving unsafe equipment will still exist. These operators will still be able to rationalize their activities as either local or, for all intents, of an intrastate nature. They will still escape the long arm of federal safety requirements.

I strongly urge the committee to review this matter, and amend S. 861 to include the elimination of ICC's commercial zone exemption found at 49 U.S.C 10321 and 10526, and 5 U.S.C. 553. UBOA stands ready, willing and able to assist the committee in this effort.

Thank you. I am prepared to answer any questions the committee may have.

Senator EXON. Thank you very much, gentlemen. Thank you for your excellent testimony, and thank you generally for the support of this legislation.

And certainly buses play such an important role in so many of our people's lives that we appreciate the fact that you have taken your time and effort to come here this morning to give us your expert advice.

Inter-city buses carry over 325 million passengers each year, as you know. However, within DOT, motor carrier issues are represented by an associate administrator for the motor carriers in the Federal Highway Administration.

Although we are glad to have Mr. Landis here with us this morning, he is again one of only 34 associate administrators within DOT, six of whom are within the Federal Highway Administration.

I take it that you would characterize the level of attention at DOT to the motor carriers generally and the bus operators in particular as somewhat short of what you think that attention should be.

Is that a fair characterization of the opinion of both of you?

Mr. TURNER. Yes, Mr. Chairman, I believe so.

Senator EXON. Mr. Smith, do you agree?

Mr. SMITH. Yes. I agree. And Senator Breaux, you know, wanted to make Mr. Landis the administrator.

I wish we could do that, because he was picked to be the associate administrator for his activities in the State of Arizona, where he took leadership and made Arizona one of the outstanding states when it comes to safety efforts.

Senator EXON. Mr. Smith, you support the elimination of the Interstate Commerce Commission's commercial zone exemption, which is an exemption from economic regulation.

Please elaborate on this, particularly on the reason why you believe this has a safety impact in particular? I keep returning to safety, because that is a major concern here, and I am sure it is a major concern of you people who have the operating responsibility.

Mr. SMITH. Well, I think it just points out what we have had heard from the witnesses today is that the ICC regulates on the aspect of the economic reasons of why there is an exempt zone, the DOT has a safety role.

We have found cases after cases, especially along the borders of the United States, the southern border particularly, where the op-

erators that are in the exempt zone can operate much more cheaply, because they do not have the regulations.

And when you do not have regulations, you can pass that on. And it is unfair for carriers who have to meet those standards for various reasons, either interstate or even if they are an intra-state operator, within the State of Texas, New Mexico or California, and here you have another operator in the motor coach business who does not have to meet those. We just feel it is unfair for the industry as a whole.

Senator EXON. My last question is addressed to you, Mr. Turner.

And for the record, could you expand somewhat on why you believe the Federal motor carrier safety regulations should be expanded to cover private carriers, particularly such as buses owned by schools and church groups?

Mr. TURNER. Mr. Chairman, these operators share the highways and the same commodity that we do: human life.

And for them to go out and not be regulated just does not make sense, that they are out there, sharing the highways, and yet they can skirt the safety issue which is obviously the most prominent one here.

There is human life at stake. And if these people can not adhere to the policies which the Federal government has established, it just does not seem that we are being fair to the people that we are carrying, which is just the main subject, I think. Our passengers.

Senator EXON. Per miles traveled, and per number of people involved, is there any significant record that establishes the fact that the drivers of those types of privately-owned vehicles, or publicly-owned vehicles in the case of schools, are less attentive or involved in less accidents than the general commercial buses?

Mr. TURNER. I would say that these people are not trained. In many circumstances they have a position at the schools or churches, something, you know, like custodian or something—

Senator EXON. They are substitute, part-time drivers.

Mr. TURNER. Yes, sir. They are not professionals.

Senator EXON. My question was, do you have any statistics to back up, I think, what is the obvious concern here as to whether or not they are involved in more or less accidents than commercial drivers?

Mr. SMITH. Can I help Mr. Turner on that? Mr. Chairman, if you will look at the National Transportation Safety Board's reports on the fatality accidents, in most cases those accidents, fatalities were involved with school buses.

It was because the drivers exceeded their hours. I mean, if they looked at the case where the driver went 15, 16, 20 hours, moving a school group from Florida all the way to New York, or from whatever destination in the United States, if you will look from 1980 to 1986, the cases and the investigations by the National Transportation Safety Board, you will see that most of the accidents that were involved with school bus was because of two things.

One was the training that Mr. Turner alluded to, and one is that they exceeded the hours that a normal commercial driver would have to meet.

Senator EXON. You know, this is a potential problem, and that is why I am asking the question.

Are you saying, Mr. Smith, that you believe the concerns, as far as safety is concerned, with school buses and church group buses, are not so much in the particular area that they serve?

In other words, driving students A, B, C, D, E, F, G, and H from their home areas to school and back is one thing. Or, in the case of a church, going out and picking up a group of passengers for some official function at the church is one thing.

But that same driver, taking that same group of people on a cross-country tour, from Los Angeles to New York and back, is quite another matter. Is that your major concern?

Mr. SMITH. There are two concerns. One is the equipment. That school bus does not meet, many times, the requirements that a commercial vehicle has to meet. We have seen this on roadside check after roadside check.

Second, with reference to the driver is that the driver of a commercial vehicle has to meet those requirements we just talked about. So many hours, then he has to be off. And the school bus driver or the church driver can just go on.

If you wanted to drive 24, 36, 48 hours, there is nothing that stops them under the present law you know.

Senator EXON. Gentlemen, thank you very much for your expert testimony. We appreciate it, and you are excused.

The last panel, who has been very patient and we appreciate that. I will call panel 3 now.

Mr. Brian O'Neill, president of the Insurance Institute for Highway Safety; Mr. John Archer, managing director of government relations, American Automobile Association; Mr. Cornish Hitchcock, co-chair of Americans for Safe and Competitive Trucking; and Mr. David Snyder, counsel of the American Insurance Association, Washington, D.C.

Thank you all for coming here this morning. Thank you for your patience. We are going to try and move this along as rapidly as possible. I would like to first call on Mr. O'Neill.

STATEMENT OF BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

Mr. O'NEILL. Thank you, Mr. Chairman. I will briefly summarize my statement. Today I want to address the questions of on-board recording devices and truck braking performance.

Truck safety continues to be a serious national concern. And we must continue seeking ways to improve the current situation. We hope that we can move forward with regulations or requirements that will improve truck brake performance and address the hours of service abuses that are so widespread today.

We hope that when Federal officials are pursuing these issues, they can avoid the stop and start rulemaking that so poorly serves not only those being regulated but also the motoring public.

What we are looking for in the case of both on-board recorders and anti-lock brakes is recognition of the improvements that have been made in truck safety technology, and the growing experience with it in other countries.

We are looking for rulemaking that begins immediately, and does not disappear into bureaucratic limbo. At the same time we do

not want regulators to rush through a predetermined course or set impossible deadlines for compliance.

The spirit as well as the purpose of these rulemaking procedures should be to collect and thoroughly consider all relevant information about existing technology to improve truck safety.

Rulemaking does not mean issuing rules tomorrow. It means collecting information, reviewing it carefully, and unless there is convincing evidence to the contrary, rules can then be issued. Rulemaking is simply starting the process by which all relevant information is systematically collected.

Let me first talk about electronic on-board recorders. These devices are already being used with great success by some U.S. motor carriers. Fleet managers in a number of corporations report that these on-board recorders have greatly improved driver safety and fuel economy.

Liquid Air Corporation, for example, of San Francisco, adopted on-board devices because according to their distributions manager, "avoiding accidents is not only a public mandate, it is clearly the only way to stay in business."

He says that his drivers and local supervisors accepted the computers for what they are, a non-threatening tool to help them do a better job. These systems save fleet operators money as well as providing safety benefits.

We welcome the Federal Highway Administration's plan, published just this week, in response to a petition from the institute, to begin collecting information and studying on-board recorders.

This step is the first step in a process which should, unless evidence arises to the contrary, end in requiring on-board recording devices for those segments of the motor carrier industry for which it is appropriate.

Turning now to anti-lock brakes. In England, 80 percent of all new truck trailers, and an increasing number of new tractors, are being equipped with anti-lock brakes. Legislation mandating them has been proposed by the European Economic Community, and will take effect in 1990.

There is pressure in Germany and France to mandate them ahead of that schedule. But anti-lock brakes are virtually absence from trucks in the United States.

In the few cases where U.S. motor carriers have experimented with anti-locks, the results are more than encouraging. After using them through two winters of bad weather, an official at one company says he is nothing but pleased and his drivers love it.

But still, anti-locks are not being sold, or virtually not being sold on trucks in the United States. Without question, it will take a regulation to ensure their wide use. Because of the upfront costs anti-locks incur, many truckers simply are not going to take this step voluntarily.

By the way I would like to set the record straight. Anti-lock brake technology is not new. The technology has been around for a long time and several U.S. truck manufacturers were offering anti-lock brakes up until a few years ago as an option. They just were not being sold.

The National Highway Traffic Safety Administration——

Senator EXON. Mr. O'Neill, they were not being sold for what? Primarily because of cost, in your opinion?

Mr. O'NEILL. In our opinion, it was the cost factor. They were available as an extra cost option, but it was an option that was virtually never being exercised by the purchasers.

Nor if history is any measure can we expect the National Highway Traffic Safety Administration to move within a reasonable time to require the kind of braking performance that is possible with anti-lock brakes.

The agency has said for years that improving big truck brake performance is a priority, but it has done little beyond testing to address the problem. We now hear today that they need two years to test 200 trucks in order to get some preliminary information. Why not 400 trucks for one year, or 600 trucks for a shorter period of time?

The technology exists today to address important and continuing truck safety problems. However, the marketplace often fails when safety improvements, like anti-locks and on-board recorders, incur upfront costs.

So this is, or certainly should be, where the government steps in to bring to the motoring public the best technologies available to protect us. Doing so in a reasonable timeframe will mean we stay the course towards safer trucks.

Failing to act will mean we lose our momentum and tacitly agree to live with less than safe trucks as the norm, instead of the exception. Thank you.

[The statement follows:]

STATEMENT OF BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

The Insurance Institute for Highway Safety is a nonprofit research and communications organization that identifies and develops ways to reduce motor vehicle crashes and their losses. We are supported by the nation's property and casualty insurers. At this subcommittee's request, I am submitted for the record information from the Institute about truck safety, particularly the need for improved brake performance and for on-board devices to record driving hours and travel speeds.

Before addressing these problems, though, I'd like to recognize some important progress made in the past year. In state after state, officials are conducting more frequent roadside truck inspections. Under a January 1987 federal rule, most truckers are required to operate with the front brakes of their rigs connected, not removed or backed off. Under an even more recent rule, this month marks the first in which it's a federal offense for truck drivers to hold multiple licenses. And the Federal Highway Administration has, just this week, issued notices about on-board recorders and commercial zone exemptions.

As important as these steps are, we shouldn't be satisfied. Truck safety is still a serious national concern and, in the wake of recent steps forward, now is the time for further improvements. In pursuing these, we hope federal officials will be able to avoid the stop-and-start rule-making that so poorly serves not only those being regulated but also the motoring public. What we're looking for in the case of both on-board recorders and antilock brakes is recognition of the improvements that have been made in truck safety technology and the growing experience with some of it in other countries. We're looking for rulemaking that begins immediately and doesn't disappear into bureaucratic limbo. At the same time, we don't want regulators to rush through a predetermined course or set impossible deadlines for compliance. The spirit as well as the purpose of these rulemaking procedures should be to collect and thoroughly consider all relevant information about existing technology to improve truck safety. And then, unless there's convincing evidence to the contrary, rules should be issued to ensure the widest possible use of new truck safety technology.

ON-BOARD RECORDERS

One of these available technologies is an on-board device that records when a truck is driven, its speed, and other information. We know, and have known for years, that some truck drivers routinely ignore limits on the number of hours they're allowed behind the wheel. We also know they falsify their logbooks. Substituting electronic on-board recorders for these logbooks could reduce the number of fatigue- and possible speed-related crashes by making it much more difficult for drivers to falsify their driving time or to violate hours-in-service regulations. On-board recorders will not only produce more reliable information than logbooks but also ease the burden of recordkeeping.

These recorders are already being used with great success by some U.S. motor carriers. For example, fleet managers for Rohm and Haas in Philadelphia as well as Harris Corporation in Melbourne, Florida, report that on-board recorders have greatly improved driver safety and fuel economy. Liquid Air Corporation of San Francisco adopted on-board devices because, according to the distribution manager, avoiding accidents "is not only a public mandate, it is clearly the only way to stay in business." He says his drivers and local supervisors "accepted the computers for what they are—a nonthreatening tool to help them do a better job." The operatings superintendent at Anchor Motor Freight says there's also "a great deal of savings to be realized if the system is utilized fully," adding that he expects to save $400,000 a year in paperwork costs for each 1,000 drivers plus the added benefits of fuel savings and tighter management control.

Equal praise comes from government officials. Chairman Burnett of the National Transportation Safety Board says requiring on-board computers would be "an excellent thing not only for accident investigations . . . but also for enforcement purposes."

In light of this positive experience, we welcome the Federal Highway Administration's plan, published just this week in response to an Insurance Institute for Highway Safety petition, to collect information and study on-board recorders. This step is the first in a process which should, unless evidence arises to the contrary, end in requiring on-board recorders for the vast majority of motor carriers.

ANTILOCK BRAKES

Another kind of new technology is needed to address truck brake problems including not only excessive stopping distances but also loss of control, especially jackknifing. As the name suggests, antilocks keep wheels from locking up during braking and, especially on slippery roads, they both reduce stopping distances and increase driver ability to maintain control.

In England, 80 percent of all new truck trailers and an increasing number of new tractors are being equipped with antilocks. Most fire trucks and those carrying hazardous cargo in Europe have antilocks, too. Legislation mandating them has been proposed by the European Economic Community and would take effect in 1990. There's even pressure in Germany and France to mandate them ahead of that schedule, but antilocks are virtually absent from trucks in the United States.

In the few cases where U.S. Motor carriers have experimented with antilocks, the results are more than encouraging. Afer using them through two winters of bad weather, an official at one company says he's nothing but pleased and his drivers love it. The president of the same company says he "can't think of anything that has been done, with the possible exception of changes in tires (when they went from tube-type bias to tubeless radials) that can make the truck safer to drive." But still, virtually no antilocks are being sold on big trucks in the United States.

Without question, it'll take a regulation to ensure their wide use. Because of the up-front costs antilocks incur, many truckers simply aren't going to take this step voluntarily. Nor, if history is any measure, will the National Highway Traffic Safety Administration move within a reasonable time to require the kind of braking performance that's possible with antilocks. The agency has said for years that improving big truck brake performance is a high priority but has done very little beyond testing to address the problem. In light of this, it'll take a push from Congress to get a regulation specifying the kinds of braking performance modern antilocks allow.

In making this rule, regulators should neither dwell on the ill-fated record of antilocks in the mid 1970s nor fail to learn from the earlier record. The antilocks available today are far more reliable than those first used under Federal Motor Vehicle Safety Standard (FMVSS) 121. A new system has been standard since 1983 on new trucks at Freightliner, a trucking company in England, and the chief engineer there says they've "had very, very little trouble with the antilock to tell you the truth."

The same engineer is convinced antilocks have reduced jackknifing "to such an extent today it is virtually nonexistent."

This kind of evidence about antilocks is convincing, but it's important for any new truck brake rule to specify performance in terms of stopping and control requirements. It shouldn't specify antilocks, because it shouldn't preclude alternative technologies if they can achieve comparable performance.

CONCLUSION

Technology exists to address important and continuing truck safety problems. However, the marketplace often fails when safety improvements like antilocks and on-board recorders incur up-front costs. So this is, or certainly should be, where the government steps in to bring to the motoring public the best technologies available to protect us. Doing so in a reasonable time frame will mean we stay the course toward safer trucks—the course that began with the new regulations issued during the past year. Failing to act will mean we lose our momentum and tacitly agree to live with less-than-safe trucks as the norm instead of the exception.

Senator EXON. Thank you. Mr. Archer.

STATEMENT OF JOHN ARCHER, MANAGING DIRECTOR OF GOVERNMENT AFFAIRS, AMERICAN AUTOMOBILE ASSOCIATION

Mr. ARCHER. Thank you, Mr. Chairman. AAA, serving more than 27.7 million members, appreciates this opportunity to testify in strong support of S. 861, The Truck and Bus Safety Act of 1987.

Along with many others, AAA believes the existing exemption from safety regulations for large trucks operating in so-called commercial zones is indefensible and needs to be eliminated.

Although the recently-announced FHWA notice of proposed rulemaking on commercial zones is most welcome, it is just a proposed rulemaking, and contains a loophole for intra-city zones having laws or regulations compatible with Federal motor carrier safety regulations.

In contrast, S. 861 does not contain such a vague loophole, and would eliminate the commercial zone exemption within a year of its enactment.

AAA also supports the development of a performance standard requiring on-board recording devices to be installed on motor carriers. A study prepared for the AAA Foundation for Traffic Safety found that fatigue was the probable primary cause of 41 percent of the 221 heavy truck accidents studied.

This study is not statistically projectable to all truck accidents. Nevertheless it demonstrates that many drivers are pushing beyond the limits of human endurance. Indeed, the statistical limitations of the study actually highlight the extent of today's problem.

The cause of many truck accidents cannot accurately be measured nor hours of service regulations enforced, because hours of service information at present can be found only in drivers' log books, which as has already been suggested, are often a work of fiction.

As one of the groups that petitioned for reconsideration of the IIHS petition for rulemaking, AAA is of course delighted that FHWA has issued a proposed rulemaking concerning on-board recorders.

However, as with the rulemaking on commercial zones, its timing to us suggests the importance of S. 861 and this hearing,

rather than great interest in on-board recorders on the part of FHWA.

AAA also strongly supports S. 861's call for rulemaking to improve truck braking performance standards. As the subcommittee is aware, the need for improved brakes has already been overwhelmingly demonstrated by the recent NHTSA study, which found that brakes could be a contributing factor in as many as one-third of the accidents studied.

This result should surprise no one. Automobiles traveling 60 miles per hour can stop in as little as 140 to 150 feet. A fully-loaded 18-wheeler, however, will stop in 250 to 300 feet, if the brakes are properly adjusted, while the same truck empty can take up to 400 feet to stop.

This enormous braking disparity leads to numerous accidents, especially rear-enders. For instance, a AAA Potomac study found last year that rear-enders comprise 20 percent of all truck accidents on the beltway surrounding Washington, D.C.

Finally, Mr. Chairman, I would like to briefly comment on point that Tom Donohue made with respect to recorders, which is a very valid point. He stated, basically, that there are a number of trucks driven on fixed route structures, and therefore on-board recorders are not needed for those trucks.

That is absolutely right. But that point is not a reason to refrain from requiring recorders. It is simply a reason to create a reasonable exemption process, whereby the industry can go in and demonstrate that a particular driver always drives the same route, day-by-day: for example, perhaps he drives from Baltimore to Washington and back again and sleeps in his own bed at night.

That is an example where you do not need the recorder. But the industry is so diverse and so enormous that there are always going to be examples like that.

To deal with examples like that, an exemption system can be created whereby you allow the companies that have fixed truck routes to demonstrate that to DOT, and get exempted. That is not a reason not to mandate recorders.

Thank you for the opportunity to appear.

[The statement follows:]

STATEMENT OF JOHN ARCHER, MANAGING DIRECTOR, GOVERNMENT AFFAIRS, AAA

Mr. Chairman, members of the committee, I am pleased to be here today. I am John Archer, Managing Director of Government Affairs for the American Automobile Association.

AAA is a federation of automobile clubs serving more than 27.7 million dues-paying members. Our association appreciates this opportunity to enthusiastically testify in favor of S. 861, the Truck and Bus Safety Act of 1987.

Last year the Motor Carrier Safety Act of 1986 was enacted. Its passage created for the first time the promise of uniform licensing and regulation of drivers of large, commercial vehicles. It is a splendid achievement.

Everyone who worked for that legislation can be justifiably proud of its enactment. We thank the leadership of this committee, especially Senator Danforth, for gaining its enactment, a goal sought by all those interested in truck safety, including AAA and the organized trucking industry.

Now is the time to address other key aspects of truck safety, especially the vehicle itself. S. 861 would achieve three vehicle-related safety objectives:

--elimination of commercial zone safety exemptions;
--investigation of the use of tachographs or other on-board recorders measuring at least speed and hours-of-operation; and
--implementation of better brakes on large trucks.

COMMERCIAL ZONES

AAA believes the existing exemption from safety regulations for large trucks operating in so-called "commercial zones" is indefensible and needs to be eliminated, as required in S. 861. Today heavy trucks and their drivers can operate in major congested, metropolitan areas without having to meet basic federal safety regulations. Ironically, this exemption permits unsafe trucks to operate on accident-plagued beltways even though the same trucks would not be permitted on less dangerous, sparsely-congested interstates.

Why should our major metropolitan areas be a potential dumping ground for vehicles and drivers that are unable to meet federal safety standards for interstate trucking? The motoring public should not be sharing rush hour traffic with commercial vehicles that are not maintained and inspected for safety.

ON-BOARD RECORDERS

S. 861 would require the Secretary of Transportation to initiate rulemaking proceedings requiring on-board monitoring devices for large trucks. AAA supports the development of a performance standard under which motor carriers would be required to install on-board recording devices capable of mechanically or electronically recording and monitoring driver and equipment performance--including hours-of-service records.

A study prepared for the AAA Foundation for Traffic Safety, which is attached to this testimony, found that fatigue was the probable/primary cause of 41 percent of the 221 heavy-truck accidents studied. The scope of this study was limited by the paucity of valid data available and by financial resources; therefore, it does not represent a statistically-projectable study, although all accidents were rigorously investigated.

As noted in the study, "Truck drivers' logs are often inaccurate and there is a shortage of other material upon which to base any decision on fatigue, short of backtracking the activities of the driver during the pre-accident period." Thus, the study used backtracking and reconstruction of the drivers' activities for days preceding the accident as the practical method available for determining the role of fatigue in those accidents.

The study results nevertheless demonstrate that many drivers are pushing beyond the limits of human endurance, endangering themselves and other highway users. Indeed, the statistical limitations of the study actually highlight the extent of today's problem. The cause of many truck accidents cannot accurately be measured nor hours-of-service

regulations enforced, because hours-of-service information at present can be found only in drivers' log books, which are often a work of fiction.

Recording devices would prompt a reduction in excessive driver fatigue and lead to fewer traffic accidents. In addition to the lifesaving gains arising from reduced highway deaths and injuries, other benefits would include reduced insurance premiums for trucking companies and diminished unfair competition in the trucking industry by those violating hours-of-service requirements.

AAA therefore believes the trucking industry should view such devices as management tools, rather than objecting to their requirement. On-board recording devices have the potential to increase efficiency, reduce speeding, and facilitate billing, as well as substantially curtail violations of hours-of-operation requirements.

BETTER BRAKES

AAA strongly supports S. 861's legislative requirement that the Secretary initiate rulemaking proceedings to improve truck braking performance standards. The need for improved brakes was overwhelmingly demonstrated by the National Highway Traffic Safety Administration (NHTSA) study which found that brake system performance could be a contributing factor in as many as one-third of the accidents studied.

The results of the NHTSA study should surprise no one. Big trucks require much longer braking distances and have more unstable braking characteristics than do automobiles. This disparity between automobiles and large trucks can be dangerous not only to the occupants of the automobiles but also to the occupants of the large trucks.

Automobiles traveling 60-miles-per-hour can stop in as little as 140-150 feet. A fully-loaded 18-wheeler, however, will stop in 250-300 feet, while the same truck empty can take up to 400 feet to stop. This braking disparity leads to numerous accidents, especially rear-enders.

The results of a study released last year by the Potomac Division of AAA found that rear-enders comprised 20 percent of all truck accidents on the beltway surrounding Washington, D.C. A truck ran into the rear of another vehicle on an average of eight times per month.

Consistently, over the years the number-one reason for placing a vehicle out of service has been defective or inoperative brakes. During 1983 and 1984, in roadside inspections by the Bureau of Motor Carrier Safety, nearly two-thirds of the trucks removed from service were cited for inoperative or defective brakes.

Some of our members' attitudes may be reaching the point that was illustrated in an editorial cartoon in USA Today for March 30, 1987. In it, a motorist is looking into his rearview mirror and sees on a front truck bumper whose image fills the mirror, "If you can read this...my brakes have just failed." Any efforts that can be undertaken to enable trucks to stop safely in shorter distances than now exist, without lockup or instability, should be initiated as rapidly as possible.

AAA is encouraged by media reports that American technology may put a low-cost, anti-lock braking system on the road by next year. This is obviously a very positive step in the right direction, albeit a long overdue one.

The technology for anti-lock brakes has been developed, tested and used in Europe. We do not understand the reluctance to adopt this brake design in the U.S. It now appears that this is beginning to happen; we certainly encourage the trucking industry to improve heavy-truck braking systems as rapidly as possible. Trucking insurance rates will benefit if they do.

We believe every responsible, safety-conscious fleet and independent owner wants the best braking systems for their vehicles. It is the truckers who are cutting safety corners that we are worried about. They are the ones that may not accept the new braking systems.

Unfortunately, without a legislative requirement the development and use of anti-lock brake technology on every large truck may never happen. But it is long overdue, and AAA believes nothing less should be required. Enactment of S. 861 will help make it happen.

Thank you for listening to our concerns.

Senator EXON. Thank you, Mr. Archer. Mr. Hitchcock.

STATEMENT OF CORNISH HITCHCOCK, CO-CHAIR, AMERICANS FOR SAFE AND COMPETITIVE TRUCKING, ACCOMPANIED BY RUSSELL C. CHERRY, PRESIDENT, ECONOMICS AND MANAGEMENT CONSULTING, AND CHIEF ECONOMIST; AND RICHARD P. SCHWEITZER, LEGISLATIVE COUNCIL, PRIVATE TRUCK COUNCIL OF AMERICA

Mr. HITCHCOCK. Thank you, Mr. Chairman. My name is Con Hitchcock. I am a lawyer with Public Citizen, and Co-chair of Americans for Safe and Competitive Trucking. With me today are Rick Schweitzer of the Private Truck Council of America, and Dr. Russell Cherry, our chief economist.

Our membership is pretty diverse. Let me take a second to tell you who we are.

Our members include associations representing companies that collectively operate more than half of the trucks on the Nation's highways, every major national association of shippers and receivers, many individual companies, large and small businesses alike, and public interest groups from across the spectrum.

For our coalition I would like to make three major points.

First, although truck-related accident rates are too high, the safety rate is improving. Rates of deaths and injuries have dropped significantly over the last decade, showing the increased competition and increased safety are not incompatible.

Second, a major reason for this decline is the committee's passage of laws designed to upgrade driver and equipment standards and to increase safety enforcement efforts.

And third, more progress can be made by enacting S. 861 and by shifting funds now wasted on ICC paper-shuffling to the motor carrier safety assistance program.

These hearings address an important question, which is, what can Congress do to improve truck safety? Before answering that question, I think it is important to address an argument that has gained some currency in recent years, namely that the Motor Carrier Act of 1980 has caused the problems we are now seeing.

There are two responses that I have. First, the argument is not supported by the data that are cited. The DOT data show that accidents, fatalities, and injuries involving trucks are all down from where they were in the late 1970s when strict ICC regulation was in effect. There is a chart in our prepared statement.

To be sure, there are still far too many accidents. But overall, the number is down while truck mileage is up considerably.

And that is an important point I want to make because when measured on the basis of accidents or fatalities per mile, truck-involved accidents are down substantially. And Dr. Cherry's study, which is exhibit 2, goes into this in detail.

The second point is that economic regulation of the sort which the ICC practices is no assurance of safe operation. The point has been made in various forums. There is a Nader study group in the summer of 1969 which made that point.

And then again there was a statement we quote from then-Secretary Adams, who told the committee in the summer of 1979 that a

safety problem existed under the current system, and that regardless of any change in economic regulation, there had to be a better program.

We agree, and would argue that the best, single way to improve safety is by enforcement. If a picture is worth 1,000 words, I would like to show the committee a chart which appears in my prepared statement that Mr. Schweitzer will discuss.

At the top, what it shows is a dark line which is the number of accidents per 100 million miles, that is starting at the upper left. And the other line with the blank circles connecting the dots, shows the inspections per million vehicle miles.

It makes the point very effectively, that the greater the number of inspections, the lower the accident rate and vice versa. Just look at——

Senator EXON. Mr. Hitchcock, I am looking at the chart, would you explain the lines?

Mr. HITCHCOCK. Sure.

Senator EXON. I am going to extend your time a little bit.

Mr. HITCHCOCK. Okay.

Senator EXON. Because this looks important. The one on the left with the solid dotted lines is per 100 million vehicle-miles. Is that right?

Mr. HITCHCOCK. Right. The upper left hand chart, maybe Mr. Schweitzer could point——

Senator EXON. It starts up there, it looks like about 37.5——

Mr. HITCHCOCK. That is the number of accidents per 100 million miles, starting in 1976. And again this plots truck inspection and truck at fault accident rates.

These are the truck at fault accident rates compiled by the California Highway Patrol. And as you can see, it goes up through 1978, drops down pretty dramatically down to 1982, up again to 1984, and then back down in 1985.

Senator EXON. Oh, I see. And then the other line, inspections——

Mr. HITCHCOCK. The other line is the number——

Senator EXON. They almost follow. Right?

Mr. HITCHCOCK. That is precisely the point that we are making. And if I could leave the committee with nothing else, there is a very strong correlation between the number of inspections and the number of accidents that you see.

Senator ADAMS. Are those inspections California registered vehicles?

Mr. SCHWEITZER. No. I believe those are all vehicles operating within the State of California.

Senator ADAMS. How do they know who is operating in the State of California if you are going beyond registrations? Anybody comes in and out with any kind of an out-of-state registration, you have got no record of it that I know of.

Mr. SCHWEITZER. They are recorded by the California Highway Patrol.

Senator ADAMS. They do not inspect every truck coming in. An owner-operator comes across that border and in and out of that state and there is absolutely no inspection.

You have no idea what is out there on the road, unless you are inspecting the companies. That is why I asked you, may we extend this time a moment, Mr. Chairman?

Senator EXON. Sure.

Senator ADAMS. You can check registered vehicles. You can check companies. But you can not check individual vehicles unless you are making everybody stop at a weight stop coming into the state.

There is not any state in the union, including California, that does that.

Mr. SCHWEITZER. They do not inspect every vehicle. You are absolutely——

Senator ADAMS. Of course not. So you are taking registered vehicles, and then you are taking fatalities, and you have got apples and oranges.

Mr. SCHWEITZER. No, I do not believe so, Senator.

Senator ADAMS. I think your general chart may reflect that. What is the basis of my question and my commentary to you is that under regulation you inspected companies. And you could inspect on the highway non-company trucks to a degree at the weight stations.

When you do away with all that apparatus, and you start trying, I agree with you that inspections are a good idea. But the only inspection systems you have in the country now are what little is done by motor carrier safety with existing companies, and whoever licenses.

In other words, whenever you get the particular truck licensed. Now, if you have got an owner-operator, or you have got an over-the-road trucker of varying types, going back and forth across the country, it will depend on his registration.

What I am saying to you is, you do not really believe, do you, that there is a state patrolman or a motor carrier inspector waiting at the border that checks everybody coming in and out.

Mr. SCHWEITZER. They are not waiting at the border. These are unannounced roadside inspections, and that is exactly what the chart shows.

It shows when they increase the number of roadside inspections that the accident fatalities went down.

Senator ADAMS. That is all you are saying. Is that it? Because, roadside inspections, the percentage of total number of trucks inspected, unless there is, like there recently was in Maryland, a flash picture taken of stopping everybody, and inspecting them, does not exist in the country.

And everybody has rejected doing it because it is so expensive for the state or whoever is doing the inspections, unless you have a vehicle registration and inspection within your state.

And I will just use Maryland as an example. They took a snapshot of a group of trucks on the highway that were out there, and I cannot remember the exact statistics, but it was something like over two-thirds of the trucks were stopped for really massive violations.

And these involved mainly people just driving their trucks. But they do not do that every day.

Mr. SCHWEITZER. If I may, Senator. Roadside inspections have not been shown to be ineffective. In fact, this committee last year voted to triple the amount of money that the Department of Transportation spends on annual roadside inspections.

And 1.2 million roadside inspections will be conducted this fiscal year through that program. So it is not something that is a very haphazard system.

Senator ADAMS. How many truck-miles are you driving a year? I have it here someplace. It was given by the Trucking Association. It is in the billions.

Senator EXON. Well, at least it would be true that this chart we are looking at, since it is headed up, truck at fault accident rates, any truck involved in an accident would show up.

These are the official stats in California. And if a truck not registered in California, that came across from Nevada, if he had an accident in California, that would show up, whether they are registered there or not.

So from that standpoint, the chart is talking about accidents. Is that correct? Any further questions?

I am sorry. We interrupted you. Now, if you could please continue. We are not going to take away from your time, because we intruded on it, Mr. Hitchcock.

Mr. HITCHCOCK. Okay. Thank you, Senator. I was just turning to the bill in question. We think that S. 861 will be helpful by removing the commercial zone exception and making heavy trucks subject to Federal safety enforcement requirements.

And we also support the provisions in the bill requiring DOT to initiate and to complete rulemakings on the technologies that have been discussed.

The rulemaking proceedings will allow DOT to assess within a specific timetable the efficiency of new technologies and the benefits and costs of their application to heavy trucks.

And finally, we would urge the committee to consider the most effective means of enhancing safety, which might mean transferring funds now used for ICC paper-shuffling to DOT for direct application of the highway inspection and carrier audit program. Thank you.

[The statement follows:]

STATEMENT OF AMERICANS FOR SAFE AND COMPETITIVE TRUCKING

Americans for Safe and Competitive Trucking (ASCT) is a nationwide coalition that supports increased truck safety enforcement and less economic regulation of trucking. Improved safety is of the highest priority to our members.

As you will see from the attached membership list, ASCT is probably the most broadbased transportation coalition ever formed. Our membership includes the following:

Associations which represent companies that collectively operate more than half of all trucks on the nation's highways;

Every major nationwide association of shippers and receivers;

Both small and large businesses; and

Public interest groups from all parts of the political spectrum.

In short, ASCT represents the majority of those who operate and use trucks on the nation's highways, as well as citizens who are concerned about truck safety and efficiency.

We are here in support of S. 861, the Truck and Bus Safety Act of 1987. In addition, although as a coalition we do not have a specific position on the creation of a Motor Carrier Administration, we support the consolidation of all federal motor car-

rier functions at the Department of Transportation, insofar as the result is to strengthen safety standards and enforcement.

Our views on truck safety can be summarized as follows:

1. Although truck-involved accident rates are too high, safety in trucking actually is improving. The rates of deaths and injuries have dropped significantly since the late 1970s, proving that increased competition and increased safety are not incompatible.

2. Among the most important reasons for this decline is a series of bills that have emerged from this Committee which have upgraded driver and equipment standards and increased safety enforcement efforts.

3. More progress can be made by passing S. 861. In addition, funds wasted in paper shuffling at the Interstate Commerce Commission should be transferred to the Motor Carrier Safety Assistance Program.

STATUS OF SAFETY IN THE TRUCKING INDUSTRY

ASCT believes we must do everything reasonably possible to reduce truck-related accidents. Too many people are killed and injured each year in accidents that could have been avoided through improved technology and intensified enforcement.

We applaud recent media attention to the truck safety problem. The public has a right to demand the safest possible conditions and the toughest possible regulations and enforcement.

At the same time, however, most of the media have missed a very important part of the story. While truck-related accident levels are still unacceptable, the situation has been improving significantly over the past few years due, in great part, to the efforts of this Committee and the House Public Works Committee.

The table below shows the trend since 1978 in truck-related accidents and fatalities, compared to the number of truck miles driven during the same period of time. The accident figures for property damage incidents have been adjusted for inflation by the Department of Transportation.

ACCIDENTS INVOLVING MOTOR CARRIERS OF PROPERTY

Year	Combined vehicle miles (Billions)		Accidents		Fatalities	
	Number	Percent change from base	Number	Percent change from base	Number	Percent change from base
1978	67.3		32,077		2,998	
1979	66.5	(1.2)	32,322	4.5	3,072	2.5
1980	60.0	(10.8)	28,220	(7.7)	2,528	(15.7)
1981	59.0	(12.3)	27,772	(13.4)	2,810	(6.3)
1982	60.3	(10.4)	27,001	(15.8)	2,479	(17.3)
1983	73.6	9.4	26,361	(17.8)	2,528	(15.7)
1984	76.9	14.3	30,038	(6.4)	2,721	(9.2)
1985	79.4	18.0	29,487	(8.1)	2,646	(11.7)
1986	(1)	(1)	24,740	(22.8)	2,627	(12.3)

[1] Not available.

Source: U.S. Department of Transportation.

The conclusion from the table above is that since 1978, in absolute terms, truck mileage has increased substantially while accidents and fatalities have decreased. DOT data shows that the same holds true for injuries. More importantly, in terms of accidents, injuries and fatalities per vehicle mile, the drop is very substantial. (This is also true for other measures of economic activity, including accidents, inju-

This is not to say that all is well. In our view, truck-related accidents, injuries and fatalities are still too high. Indeed, although the human cost alone is enough to require immediate action, there is another persuasive reason to be concerned about truck safety. In the past few years, the reliability of truck transportation has taken on much greater importance to the nation's economy. As a result, truck safety is increasingly linked to our nation's overall productivity and competitiveness.

The flexibility allowed by the Motor Carrier Act of 1980 has led thousands of American businesses to convert to "just-in-time" production systems. This is an innovative system, pioneered by the Japanese, that has saved billions of dollars for American businesses and consumers since 1980. Under these systems, companies

can cut back dramatically on inventories by arranging for highly precise deliveries of materials just in time for use on production lines or for sale in stores.

So today, for more than ever before, when a truck breaks down, has an accident, or is taken out of service in an inspection, American businesses and consumers can suffer serious economic harm. If a shipment is late, an entire production line can shut down or an advertised sale will have to be cancelled. That is why improved truck safety is not only good public policy, it is also good business.

ECONOMIC REGULATION AND SAFETY

ASCT believes the record is clear on the question of safety and economic regulation. The simple fact is that the rates of truck-related accidents, injuries, and fatalities are fewer today than they were during the late 1970s when trucks were heavily regulated by the ICC. We repeat, they are not at acceptable levels, but they are down. We have included a detailed economic analysis of safety statistics, prepared by ASCT's Chief Economist, Russ Cherry, that we request be included in the record. We have also included three editorials that directly address this point.

As far back as 1970, the Ralph Nader Study Group released a scathing report on the ineffectiveness of the ICC in promoting truck safety through entry and rate restrictions, even with the ability to revoke certificates for safety reasons. A detailed survey of some 1300 truck drivers showed the following: 50 percent of the drivers reported they were forced to exceed the hours of service rules; 78 percent of the drivers admitted they had drowsed at the wheel; 56 percent reported that taking pep pills was commonplace; 74 percent admitted they exceed speed limits (then 70 mph) to meet company deadlines; 36 percent reported that they were often forced to drive equipment with inadequate brakes; 41 percent complained that they were forced to drive with exhaust leakage into the cab; and 42 percent reported being forced to drive with unsafe loads.

Last year, in testimony before the California Public Utilities Commission, the author of this 1970 study, University of San Diego Professor Robert Fellmeth, affirmed his conclusion that there is no relationship between economic regulation and truck safety. In doing so he cited his own research of 20 years plus the record of truck safety in California since 1980.

This is consistent with the views of nearly every independent expert. Indeed, eight years ago last month, Senator Brock Adams testified before this Committee in his capacity as Secretary of Transportation. In retrospect, that testimony was prophetic.

His written statement on safety began by noting with great concern an increase in truck-related accidents, injuries and deaths over the previous three years. "Let me emphasize," Secretary Adams wrote "that this problem exists under the current economic regulatory system. Regardless of a change in economic regulation, there must be a better safety program." During the questioning, he went on to explain that "the economic regulatory system that we are talking about is not policing safety. In my judgment we must take action to strengthen our enforcement of highway safety whether or not economic regulatory reform is enacted. In other words, we have to address the safety issue directly."

We agree. So did this Committee.

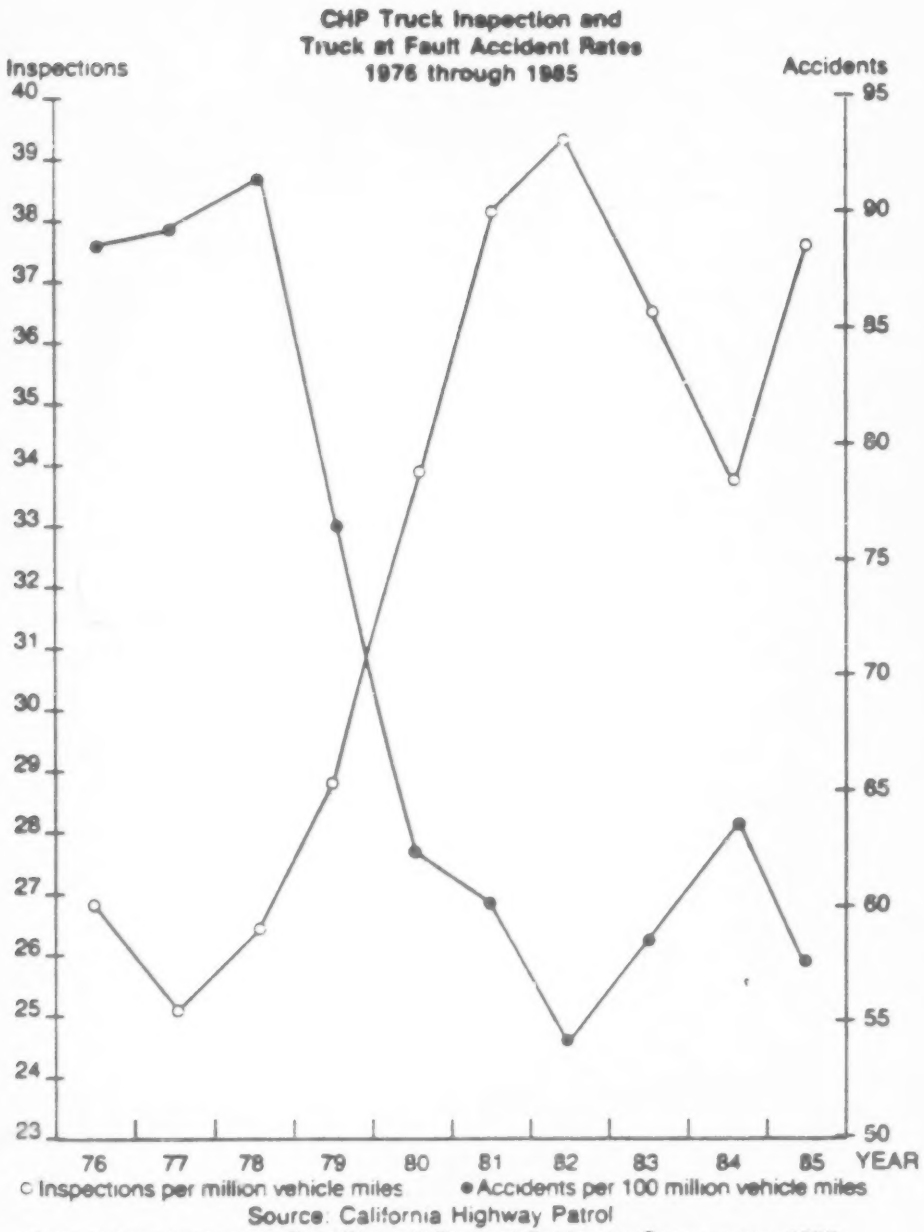
Yet, recent media reports have only paid lip service to the considerable efforts of this Committee and Congress to tackle this tough issue head-on.

You in this Committee have sponsored and enacted three major pieces of legislation since 1982 that have directly and substantially improved truck safety: (a) the Surface Transportation Assistance Act of 1982, (b) the Motor Carrier Safety Act of 1984, and (c) the Commercial Motor Vehicle Safety Act of 1986.

We have no doubt whatsoever that the first two bills have saved hundreds of lives and prevented thousands of injuries. Prompt implementation of the uniform drivers license requirement by DOT should save even more lives, as would quick enactment of S. 861 by this Congress.

ASCT believes that the key to improved safety is tougher regulations and more on-the-road inspections and carrier audits.

During this hearing, the Committee will be inundated with charts and graphs. Among all the date we have seen, however, there is one chart that is nothing short of astonishing in the direct and simple message it sends about truck safety. Prepared by the California Highway Patrol, it showns the correlation between on-road safety inspections and truck accidents over the past 10 years in California.



Source: California Highway Patrol

"Critical Item Inspection Fact Sheet." State of California. Sacramento, 1986.

It is hard to imagine more persuasive evidence that direct enforcement efforts are by far and away the most effective way to reduce truck accidents.

That is why the most immediate and direct benefit of S. 861 will be the elimination of the so-called commercial zone exemption from the Federal Motor Carrier Safety Regulations. Incredibly, under current law most trucks operating in major urban areas are exempt from federal safety requirements. This glaring loophole in safety enforcement must be brought to an end immediately

Although our Coalition members differ on the question of whether to continue an exemption for small, delivery-type trucks, we are totally united in our belief that

large trucks should be subject to federal safety rules no matter where they are operating. It is absurd that trucks travelling on Washington's Capital Beltway, through tunnels in New York City, over Los Angeles freeways, and along similar highways in many other congested urban areas are not subject to these safety requirements.

The commercial zone exemption may have been a good idea when it was established in 1939, however, current acident rates for urban areas are substantially higher than for comparable vehicles operating in non-urban areas. The exemption keeps those vehicles at greatest risk to the public and operating in the most dense traffic from coming under the safety rules.

As a coalition we support the provisions of the bill requiring DOT rulemakings on anti-lock brakes and on-board recorders, although some of our members have taken somewhat different positions as indiivdual associations and companies.

In particular, we believe that recent technological breakthroughs on antilock brake technology have the potential of making remarkable progress. This is an area in which the marketplace may outpace the regulators in seeing that the new technology is applied. If initial reports are to be believed, the economic benefits of the new brake technology in preventing accidents is very impressive.

The question of on-board recorders goes directly to the issue of enforcement of speed limits and drivers' hours. On board recorders can keep an accurate record of the minute by minute movement of each truck, including the speed it travels and the time it is moving or standing still. The technology is highly developed since the use of on-board recorders is widespread throughout Europe.

Whle the cost/benefit value of requiring on-board recording devices must be carefully examined, more reliable monitoring of hours of service and speed limits surely will promote safety. It will also reward companies who today carefully comply with both speed limits and hours of service regulations, but compete against other companies who do not.

THE NEED FOR LEGISLATION

Some would argue that this legislation is not needed because the Department of Transportation is already moving in the areas mandated by the bill. Recent media reports indicate that DOT has decided to reverse itself and will soon announce a rulemaking on the question of on-board recording devices. Moreover, DOT is already running tests on anti-lock brake technology.

These are welcome developments. Nevertheless, the legislation is still desirable as the best possible way to guide the Department in allocating its resources on the safety question.

The legislative accord of this Committee on truck safety is exemplary. The provisions of S. 861, when combined with previous legislative initiatives, will constitute a strong and effective response to a problem that has been with us for decades.

When Secretary Adams testified in 1979, he noted that state enforcement efforts varied widely—from extensive in some states to virtually nonexistent in others. He also pointed out that the limited resources of DOT allowed a mere 30,000 vehicle safety checks per year.

By creating and funding the Motor Carrier Safety Assistance program, this Committee has made substantial progress in reducing these problems. It establishes a basic level of national uniformity as 48 states have agreed to join the program. This has also led to 4,000 new state safety inspectors out on the highways. Each year this program has made significant gains:

	Total inspections	Total safety audits
Year:		
1984	159,347	0
1985	371,014	1,236
1986	524,314	1,532
1987 (proj.)	1,247,490	3,574

More than any other factor, these inspections have helped to reduce the rates of truck-related accidents, injuries and fatalities in recent years.

Indeed, tremendous progress in reducing truck-related accidents has just been reported by the California Highway Patrol. Overall, truck accidents in California fell almost seven percent for the first quarter of 1987. More importantly, on highways where intensive enforcement efforts are underway, accidents declined by as much as 40 percent.

A PROPOSAL FOR MORE SAFETY FUNDS

A greater level of inspections can produce even better results. The ability to increase inspections is limited only by available resources.

We believe that additional funding should be made available for the Motor Carrier Safety Assistance Program. Keeping within the constraints of Gramm/Rudman/Hollings, we suggest that the wasteful, paper shuffling, operations of the Interstate Commerce Commission relating to motor carriers be eliminated and that the money saved be placed directly into the safety program.

Approximately $25 million annually could be transferred from the ICC to the safety program without adversely affecting the budget. This would increase the federal contribution to the roadside inspection and carrier audit program by 50 percent. There could be no single increase in safety that would be more effective.

Senator EXON. Thank you. Mr. Snyder.

STATEMENT OF DAVID F. SNYDER, COUNSEL, AMERICAN INSURANCE ASSOCIATION, ACCOMPANIED BY PHIL BROWN, ASSISTANT DIRECTOR, TRAVELER'S INSURANCE COS.

Mr. SNYDER. Chairman Exon, Senator Adams, Members of the subcommittee, staff, ladies and gentlemen. The American Insurance Association is indeed honored to be here this morning.

We hope that our statement will enhance your efforts to move this important public safety legislation as expeditiously as possible.

I am Dave Snyder, counsel for AIA. And with me is Phil Brown, assistant director with the Traveler's Insurance Companies, who is chairman of AIA's Commercial Automobile Insurance Subcommittee.

The true beneficiaries of the important legislation which you are considering today will not be testifying during these proceedings.

These are the thousands of people whose lives will be saved, who will be spared injury, who will not suffer business losses, and who will enjoy improved insurance rate bases as a result of your efforts.

The American Insurance Association is here today because the claims adjusters of many of our 171 member companies deal on a daily basis with the tragic results of motor vehicle accidents.

We are also here because our member companies and their policyholders ultimately pay the pricetag for highway accidents, including those caused or contributed to by motor carriers.

Through residual involuntary insurance pools called Auto Insurance Plans, established by law in virtually every state, commercial auto insurers and their policyholders must directly or indirectly insure virtually all commercial motor vehicles, regardless of vehicle or driver hazard, and regardless of whether prudent insurance principles would permit coverage.

This mandatory coverage also results in the insurance industry's absolute inability to effectively police motor carrier safety. As legislators, therefore, you are the only people who can mandate safer commercial motor vehicle commerce, and the reduction in the human and economic loss that results from motor carrier highway accidents.

Last year AIA member companies provided approximately one-third of the commercial motor vehicle insurance in this country. The insurance industry as a whole paid out $10,667,000,000 in losses and related expenses in 1986 alone. Safety must be our number one priority followed closely by efficiency and sound regulation of motor carrier commerce. What is good for safety is good

for the public. What is good for safety is also good for us and the policyholders we serve. If the objective of motor carrier safety will be enhanced by creating a more efficient regulatory structure, such as a motor carrier administration, then we are for it.

S. 747 sets forth the legislative agenda for the establishment of the new agency, including "the intent of Congress to give the highest priority to safety on the nation's highways." We take that language at its face value and urge that it remain in the bill.

Accordingly, we support the creation of a motor carrier administration. But safety must be the new agency's number one goal. We also support the continued NHTSA role in safety.

The Congress may wish to consider enhancing its oversight of the new motor carrier administration to assure the congressionally established safety priority. One way to do that would be to have the deputy administrator, as well as the administrator, subject to the advice and consent of the Senate.

As an alternative, the committee might wish to consider restructuring the agency so as to provide an administrator and two deputies, one of whom would be designated as being responsible for safety programs.

We respectfully urge you to focus some attention on the structure of the agency to assure that safety will have an advocate and will remain the number one priority objective of the new administration. But we also support the other objectives of the new agency which include enhancing the motor carrier and bus industry's efficiency and productivity and providing for cost savings from the elimination of duplicate agencies within the Federal Government. Anything that will simultaneously enhance safety while improving efficiency and reducing unnecessary governmental expense should receive the strong support of all our citizens, and it has our support.

In connection with the Department of Transportation's comments and objections to the motor carrier administration bill, we would like to say that we have participated with all interested groups in assuring that the recent commercial driver's license be promptly and fully and completely implemented by the Department of Transportation. And we intend to play that role, reorganization or no reorganization.

A number of specific safety issues are also addressed by the Congress. The first of these is eliminating the commercial zone exemptions. These bloated geographic exemptions from needed protection make no sense either from the standpoint of safety or efficiency. Accordingly, we wholeheartedly support total and immediate elimination of commercial zone exemptions from safety regulations.

On the second specific safety issue, the proposal for rulemaking on the need for on-board monitoring devices. This is addressed likewise in Senate Bill 861. Presently the Department of Transportation is granting exceptions from the recordkeeping requirements for firms which install on-board recorders which perform the same functions.

We support that effort. We think that this practice should be allowed to continue until a date certain in the immediate future. The results of these tests should be analyzed and a rulemaking should be commenced by January 1, 1989 to require the installation of

these devices in most new and existing commercial vehicles if they are found to be effective as we are virtually certain they will.

Finally, no equipment safety issue has been so thoroughly explored by entities, such as the Institute for Highway Safety, as braking systems. And we support anything that will improve braking performance of motor vehicles.

In conclusion, we urge favorable consideration of the creation of a motor carrier administration so long as it will actually enhance public safety. We also support efforts by the Congress to abolish commercial zone exemptions, to move toward installation of onboard recorders and to require better braking performance.

Thank you very much.

[The statement follows:]

STATEMENT OF THE AMERICAN INSURANCE ASSOCIATION

Mr. Chairman and Members of the Subcommittee: The American Insurance Association (AIA) would like to express appreciation to you and your staff or giving us the opportunity to appear today before your Subcommittee. We hope our statement will enhance your efforts to move this important legislation as expeditiously as possible. I am Dave Snyder, counsel for the AIA. Next to me is Phil Brown, Assistant Director with the Travelers Insurance Companies, who is Chairman of AIA's Commerical Automobile Insurance Subcommittee.

The true beneficiaries of the important legislation which you are considering today will not be testifying during these proceedings. These are the thousands of people whose lives will be saved, who will be spared injury, who will not suffer business losses and who will enjoy improved insurance rate bases, as a result of your efforts.

The American Insurance Association is testifying before you today because the claims adjusters of many of our 171 member companies deal on a daily basis with the tragic results of preventable motor vehicle accidents. We are also here because our member companies and their policyholders ultimately pay the pricetag for highway accidents, including those caused or contributed to by motor carriers. Insurance prices are based on, and reflect, insurance claim payouts, as required by state law.

Through residual involuntary insurance pools called Auto Insurance Plans, established by law in virtually every state, commerical auto insurers and their policyholders must directly or indirectly insure virtually all commerical motor vehicles, regardless of vehicle or driver hazard and regardless of whether prudent insurance principles would permit coverage. These mandatory insurance pools often result in huge deficits (which other policyholders must fund through increased rates) because State Regulators often do not approve adequate rates for the pools. Mandatory coverage also results in the insurance industry's absolute inability to effectively police motor carrier safety. As legislators, you are the only people who can mandate safer commerical motor vehicle commerce and the reduction in the human and economic loss that results from motor carrier highway accidents.

Last year, American Insurance Association member companies provided approximately one-third of commerical motor vehicle insurance in this country. The insurance industry paid out $10,667,000,000.00 in losses and loss adjustment expenses for commerical auto coverage, in 1986 alone. These benefits went to pay medical bills, to rehabilitate injured people, to replace damaged property, and to allow motor carrier operations to be restored. Our role is critical to commerce, and your role is critical to us, if we are ever going to see a reduction in human tragedy and economic loss, as reflected in increased automobile insurance payouts.

Safety must be our number one priority, followed closely by efficiency and sound regulation of this important segment of our commerce. The Congress, the Committee, and this Subcommittee have always made safety a major priority. Nothing you do today or in the future should lessen that priority commitment to safety. We, like you, serve the public. Your constituents are our policyholders. What is good for safety, is good for the public. What is good for safety is also good for us and the policyholders we serve.

If the objective of motor carrier safety will be enhanced by creating a more efficient regulatory structure, such as a Motor Carrier Administration, then we are for it. S. 747 sets forth the legislative agenda for the establishment of the new agency, including "the intent of Congress to give the highest priority to safety on the Na-

tion's highways." We take that language at its face value, and accordingly support the creation of a Motor Carrier Administration.

Safety must be the new Agency's number one goal. We also support the continued NHTSA role in safety, guaranteed by the present language of S. 747. Standards should generally be performance not design standards.

S. 747 provides for a Motor Carrier Administration headed by an Administrator appointed by the President, with the advice and consent of the Senate and a Deputy Administrator who is appointed by the Secretary of Transportation, with the approval of the President. The Agency will have the responsibility for coordinating and administering safety programs, and also engaging in regulatory activities which will increase productivity and efficiency. Nonetheless, the structure, and the people called upon to fill the key positions, should reflect the primary objective, which is the reduction of unnecessary loss of lives, injuries and economic losses.

The Congress may wish to consider enhancing its oversight of the new Motor Carrier Administration to assure the Congressionally established safety priority. This could be accomplished in several ways. The simplest way, would be to follow the model of the Federal Aviation Administration and make appointment of both the Administrator and Deputy Administrator subject to the advice and consent of the Senate. Certainly, this would increase Congressional oversight and help assure that safety will remain the major priority.

As an alternative, the Committee might wish to consider restructuring the Agency so as to provide an Administrator and two Deputy Administrators, one of whom would be designated as being reponsible for safety programs, all three of whom could be subject to the advice and consent of the Senate. There is precedent for this model in that the Secretary of Transportation, his or her Deputy, Associate and Assistant Secretaries and the General Counsel are all appointments which are subject to the advice and consent of the Senate.

Clearly, the determination of the structure of the agency is your prerogative. Nonetheless, we urge you to focus some attention on the structure of the Agency to assure that safety will have an advocate and will remain the priority objective of the new Motor Carrier Administration.

William Penn in his Preface to the first frame of Government for his Colony noted that there had been much discussion about the structure of Government. To him, however, the most important consideration was the quality of people who would make the structures work. He wrote that ". . . governments rather depend upon men than men upon governments."

Nonetheless, we must also be mindful of structures. As we celebrate the 200th Anniversary of our Constitution, we all recognize that frameworks and structures are indeed significant. The dynamic interplay between a good and open structure and able and well motivated public servants will likely guarantee success. For this reason, we urge your careful consideration of the structure of the new Agency, to assure that safety will receive the highest priority. On the other hand, rest assured that we will cooperate with our colleagues in the motor carrier and bus industry, to help identify the highest caliber public servants, to fill the positions in the Agency.

We also support the other objectives of the new agency, which include enhancing the motor carrier and bus industry's efficiency and productivity and providing for cost savings from the elimination of duplicate agencies within the Federal Government. No one benefits when safety regulation imposes unnecessary costs, while failing to accomplish its overall objective. Anything that will simultaneously enhance safety, while improving efficiency and reducing unnecessary Governmental expense should receive the strong support of all citizens, and it has our support.

In this connection, the review of the responsibilities of the Department of Transportation and the Interstate Commerce Commission, to determine which programs can be more efficiently performed by which agency, also makes sense. We would hope that there would be ample opportunity, either through public hearings on the draft report before the new agency, or through Congressional hearings, for all interested parties to review and comment on the results of this study.

A number of specific safety issues are also being addressed by the Congress. The first of these is eliminating the commercial zone exemptions from the Federal Motor Carrier safety regulations. These bloated geographic exemptions from needed protection make no sense either from the standopint of safety or efficiency. If you are sharing the highway with a truck, it is absolutely irrelevant whether that truck has gone 10 miles, or across the country. From your standpoint, you are concerned about the performance of the driver and the safety of the equipment.

Accordingly, we wholeheartedly support total and immediate elimination of commercial zone exemptions from safety regulation. S. 861, by and large, performs this important function. While we laud any administrative action eliminating commer-

cial zone exemptions, legislation prohibiting the exemptions is the surest way to resolve the issue, once and for all.

Section 3 of S. 861 closes the exemption for comercial zones from many safety regulations. The bill is silent, however, on the exemption from Part 397—Transportation of Hazardous Materials; Driving and Parking Rules, for trucks carrying up to 5000 pounds of hazardous materials. (49 C.F.R. Section 397.1(c) based on 49 C.F.R. Section 390.16.) The bill also includes an express exemption from most physical qualifications for some drivers, in commercial zones. This means that a driver who has been diagnosed as having a major heart condition or who is subject to seizures or fainting could still be on the road.

The justifications for these continuations, albeit limited, of the commercial zone exemptions is not apparent. In the absence of an excellent safety-related rationale, we respectfully urge the total elimination of commercial zone exemptions from safety regulations. Such exemptions from safety regulations are illogical, overly broad, and can defeat, to a great degree, the public policy objective of preventing unnecessary loss of life, injuries and economic losses due to motor carrier highway accidents.

The second specific safety issue under consideration is a proposal for rulemaking on the need for on-board monitoring devices. This is also addressed in S. 861. Presently, the Department of Transportation is granting exceptions from its recordkeeping requirements for firms who install on-board recorders which perform the same functions. Such devices can be more effective than existing paper recordkeeping in monitoring and assuring compliance with important safety laws. They may also improve productivity because they do not sap driver time for recordkeeping and pay for themselves by reducing operating expenses. They are useful in defending the driver, or the trucking firm, against unmeritorious complaints or liability claims and may be better evidence than paper records. These devices, however, will only be effective, if they are used by management and are the basis for prompt and effective action by management and regulators.

The American Insurance Association supports the Department of Transportation's practice of granting exemptions from paper recordkeeping requirements in exchange for installation and use of on-board monitoring devices. This practice should be allowed to continue until a date certain in the immediate future. The results of these tests should be analyzed and a rulemaking should be commenced by January 1, 1989 to require the installation of these devices in most new and existing commercial motor vehicles if they are found to be effective, as we are virtually certain they will be.

We do not necessarily support a requirement that these on-board recorders be placed in vehicles immediately, because of their cost and relative newness in this country. Likewise, the on-board recorders need not be required for trucks used continously on the same daily, local roundtrip routes. Nonetheless, the Secretary of Transportation should be directed to determine the effectiveness of onboard computers by January 1, 1989, to be followed by an expedited rulemaking, with a specific deadline to require the installation of the devices.

The AIA supports aggressive regulatory activity on the third safety issue which is to be considered today, the need for improved braking performance standards for trucks and truck trailers. Perhaps no equipment safety issue has been so thoroughly studied, through the work of the Insurance Institute for Highway Safety (which we support) and other groups, than braking. We must move as rapidly as possible to adopt the toughest, cost-effective requirements for truck braking systems. S. 861 addresses this issue, as well.

In conclusion, we truly appreciate the opportunity to testify today on motor carrier safety, a foremost humanitarian and economic concern for AIA's member companies. Each day our people see the tragic results of preventable highway accidents. Each day, these preventable accidents affect the insurance rate base, which ultimately impacts the premiums that our policyholders pay. Alone, we are helpless to police truck safety because of state laws requiring us to provide insurance for virtually every commercial motor vehicle and driver, whether they should be on the road or not.

For these reasons, we urge favorable consideration of the creation of a Motor Carrier Administration, so long as it will actually enhance public safety. We also support efforts by the Congress to direct that regulators move immediately to abolish commercial zone exemptions, to move toward installation of on-board computers and to require better braking performance. Thank you.

Senator EXON. Gentlemen, thank you very much.

Since we are talking about safety—and I don't know whether you are prepared to answer this question or not because I am sure that the final tabulations are not in yet. But generally speaking, do you have any statistics that would reflect if there was any significant change in truck related accidents since the speed limit was increased in most rural interstate systems in America? Has there been any change?

Mr. O'NEILL. Mr. Exon, I think it is too early to answer that question. The statistics are not in yet.

Senator EXON. There are no stats in? Don't you keep monthly records of this?

Mr. O'NEILL. Not the kind of statistics that can be analyzed in that detail. They are not available monthly. All that is available on a monthly basis tends to be gross tabulations which do not break down the kinds of fatalities or crashes or injuries. We do not count, for example, big truck accidents on a monthly basis.

Senator EXON. Mr. Archer, do you have anything on that?

Mr. ARCHER. I would agree with Mr. O'Neill's comments and further state that one reason why the statistics may come in a little slower is because the change to 65 mph is on a two-track system. Seven states have adopted truck differentials, basically keeping 55 for trucks. In one case it is just 55 for trucks at night. So, you are going to have different kinds of results which will be very instructive.

There is an argument that you ought to have a differential because of the braking problems with trucks; namely, don't let them go faster because they will stop even slower, which would be an even more substantial problem.

The alternative argument is that a differential creates two traffic streams going at different speeds and that's a potential problem. These are conflicting theories; it will be very instructive to see what the answers are. California and Texas are two big states that have implemented the differential, so it will be very interesting to see what the results are.

Senator EXON. Mr. Hitchcock?

Mr. HITCHCOCK. I am afraid we do not have anything specific either, Senator.

Senator EXON. Mr. Snyder?

Mr. SNYDER. To the best of my knowledge, we don't have any data responsive to your request, but I will check with our member companies to see if anything is available.

Senator EXON. Well, we want to monitor this and see what is going on. Although I know that certain segments of the trucking industry and certain segments of the insurance industry were alarmed at the possibility of increasing the speed limit, I think that was an academic exercise. And I am wondering if the statistics won't eventually prove that. The trucks were not going 55 miles per hour on the interstate anyway, which there were certain exceptions.

I don't know if any of you were here when this matter came up, but I drive the interstate. I have driven the interstate all the way from Nebraska to Washington, D.C., and I drive the interstate from time to time in this area, including trips to Baltimore. And while there were some trucks, those few insignificant traffic stoppers

that were driving 55 miles per hour and in my opinion are causing more hazards than it was worth, I suspect that there will not be any basic statistics because most of the trucks that you had control over were not going 55 miles per hour anyway. But I would appreciate that information as we go along to prove I was correct.

If the opposite information comes to pass, then forget it. I just don't want to hear about.

Mr. O'NEILL. Mr. Exon, if I could——

Senator EXON. Let me ask a question of the insurance related witnesses. I guess that would be Mr. Snyder and Mr. O'Neill.

Would you go so far as to consider insurance reductions for those companies that use antilock brakes?

Mr. SNYDER. Senator, I think the result that you are interested in, in fact, is occurring to some extent and will occur even more so in the future.

Underwriters, when they look at a commercial risk as I have been informed, traditionally look at—particularly larger fleets—the types of vehicles that they have, the equipment, the maintenance of that equipment, and the qualifications of the drivers. They also, for certain types of fleets, look at overall experience. And to the extent that the devices will improve the experience of a particular fleet, that fleet will be quite capable of negotiating better premiums from the insurance carrier as a general matter.

In addition to these individual case-by-case reviews, state rating laws provide generally that rates shall not be inadequate, excessive or unfairly discriminatory. States, in reviewing whether a rate filing is excessive or not, consider the number one factor to be the amount that the insurance carrier has paid out in the past and the extent to which that is a valid basis for future rates. So, in fact, I think the end that you are interested in achieving is occurring to some extent and will likely occur in the future.

Senator EXON. Do you agree with that, Mr. O'Neill?

Mr. O'NEILL. My organization is supported by insurers, but we are not in the day-to-day business of insurance, so I will defer to the business side of the insurance community.

Senator EXON. Returning to the speed limit issue once again, do you have any information, official or unofficial, or reports that have come in or rumors that have come in as to whether or not the trucks generally are taking advantage of the situation and have increased their actual driving speeds? I suspect that they were going—most trucks were traveling in the area of 62 to 66, 67 miles per hour. Has that average speed, if there is such a thing, which I think there was, but probably no statistics to prove—are they moderating the threat that they would sneak up with their speed once we moved it up to 65?

Mr. O'NEILL. Mr. Exon, my organization has recently conducted some speed measurements with non-detectable radars because one of the problems when you are measuring speeds today is the widespread use of radar detectors. We were using radars that cannot be detected by the detection units in the State of New Mexico, which was the first state to raise the speed limit.

We took speed measurements one week after the speed limit was raised and eight weeks after the speed limit was raised. And unfortunately, eight weeks into the new speed limit, most vehicles were

traveling faster than they were one week after the new speed limit. And in fact, eight weeks after the 65 mile an hour speed limit was law in New Mexico, 49 percent of the vehicles in that state on the rural interstates, based on our sampling, were exceeding the 65 mile an hour speed limit.

We do have separate figures for big trucks, but I don't recall them. But I would be happy to submit those detailed figures for the record.

Senator EXON. What are the enforcement procedures in the State of New Mexico? Are they trying to enforce the 65 miles per hour speed limit, or are they essentially ignoring it?

Mr. O'NEILL. The state police are—it is my understanding—trying to enforce the new speed limit in that state. We have a problem I think in most states with a limited number of patrolmen compared to the miles of highway that have to be patrolled and the number of vehicles that have to be controlled. Enforcement of speed limits is a problem across the United States because of limited patrolmen and also because of the proliferation of devices such as radar detectors.

Senator EXON. But while that is true, it seems to me that if the word is out in New Mexico or any other state, which I think it should be, that we took action to "raise the speed limit," actually we didn't raise the speed limit, we just set the speed limit at where people were traveling.

But I think there is a legitimate concern. And that is why this is one Senator who was for raising the speed limit. We made very clear warnings that in so doing we had anticipated and expected the state enforcement officials to enforce that new speed limit otherwise we are going to get into a higher speed level than what we were previously traveling at. So, I think the key to this is enforcement.

And I still say despite the fact that we do not have enough patrolmen, despite the fact that we do not have enough radar, despite the fact that there are radar detectors, I suspect that those radar detectors are still not used very much by the average traveling public. And I think once the word gets out that you are going to get a ticket at 66 miles per hour on the interstate system in New Mexico or anywhere else, you are going to make sure that most of the travel is at the legal speed limit.

One last question, then I will recognize my colleague.

In the written testimony, the American Trucking Association claims that there are no well-documented studies which show that the use of on-board recorders improve safety. Would you comment on related research that any of you might have or be aware of that shows that the use of these devices does, indeed, improve safety?

Mr. O'NEILL. Mr. Exon, I think that the ATA is probably correct that there is no formal research on the subject. On-board recording devices, mainly the mechanical types, have been required on all big trucks in Europe for many years. And information that we have been able to get from Europe indicates that that has been a successful requirement, and in fact is no longer controversial.

The newer devices, the electronic devices, have only been around for a few years. The fleets that we have contacted that have been using them all report very favorable experience. I don't know of

any formal research, but we are hoping that the rulemaking process should enable the government to pull together all of the information that is available on this technology.

Senator EXON. Thank you. Any of the other witnesses care to comment on that? Anything different?

Mr. ARCHER. Just to make a comment that is not directly on point, but is related—we are talking about mandating a performance standard: Once we create that performance standard, we are going to have better and better computers.

One of the problems we are now facing is the so-called chicken and the egg problem. As long as these computers are not required in the U.S., the development is not going to be as rapid as it could be. So, in developing American on-board recorders we are depending on the benefits of the European experience. But if we require American trucks to use recorders, we would develop even better recorders quickly.

Senator EXON. Thank you.

Senator Adams?

Senator ADAMS. Thank you, Mr. Chairman.

Despite the sharpness of my comments, gentlemen, I am very much in support of your position and have been for almost two decades. What I am concerned about and I was concerned about when I was Secretary of Transportation is that we do not and have not had a sufficient inspection system to handle the number of trucks that are on the road, and they move in and out. And the Insurance Institute has reflected this. And I was particularly concerned about your charts and your executive summary that says the point is that economic regulation and safety are not linked. Level of truck safety both before and after regulatory reform is not acceptable.

We all believe that it was necessary to have regulatory reform, but I think that is a foolish statement for anybody that knows the operations of the trucking industry to say that when you are insuring an industry or you are attempting to regulate safety of it that it's as easy to regulate hundreds of operators moving in and out of the business, going broke as owner-operators, being hired in with leased trucks, running up against a five year deferred maintenance, driving as your statistics show many of them increasingly long hours. In other words, the whole pressure of an economic marketplace on an owner that owns only one truck or three trucks drives that person toward increasingly more dangerous practices.

Now, if I am wrong about that—and I won't take the time of the Chairman myself this morning. I would like to have you submit that in writing to me, and you can direct it to my staff.

But we knew with the change in regulation that you can regulate yellow freight by going into its maintenance operations. Their trucks are all marked. You can keep track of them. But when you have a huge number of leased operations and with people who can only stay in, say, five years and they have run out of money because they have not had backloads and so on, and their tires are beginning to go, and the rest is beginning to go, then you have to depend upon a state inspection system. I mean, there isn't any other.

And I am in support of giving money to States to inspect. I am in support of increasing the number of inspectors in the Federal Gov-

ernment, but the point is as you go to more and more units that have no Federal connection or are registered in States that do not have tight regulations and some will—California is an originating State. It will have very tough regulations because it has a very tough problem. It will vary throughout the states as to how much they do.

We are trying with this as a first step. And that is why Senator Danforth and I put it in, to try to use some technology to beef up the inability to inspect. And I just want you to contemplate—and I will give any of you a chance to reply who want to comment to my statement—that you cannot deregulate the trucking industry and create an enormous number of more units without—this is gone—without increasing the safety problem.

And I agree with Senator Exon. I am worried—and I think the AAA should be worried. As the truck speeds go up, as you go to doubles and triples, and as your cars get more and more light, and you are driving in commercial zones with people that are not subject to the inspection requirements that used to be in place for what we call peddle operators, you have got an increasingly dangerous situation. Now, that is my feeling about it.

Now, if you want to submit in writing where I am wrong or if one of you wants to make a violent statement of how wrong I am, please be my guest. And I will finish with that, Mr. Chairman.

Does anyone want to tell me how wrong I am?

Mr. O'NEILL. Mr. Adams, I would like to agree with you. I think that there is no question that if you have a small number of large fleets, it is easier to control that situation than if you have a large number of small fleets. And deregulation is pushing us in the direction of lots of small fleets. And I think some of the situations we are seeing on the highway in the roadside inspections where large numbers of trucks are in terrible condition is to some extent a reflection of these short-term economic pressures on some segments of the industry to cut corners on maintenance of safety equipment. There is no question that we need some very tough safety regulations and tough enforcement to insure that our highways are as safe as they should be.

Mr. ARCHER. Senator Adams on the part of Triple A, we strongly agree with everything you have said. We will submit to you a study which in part relates very much to your point that there are increasingly owner-operators coming into the market that are under enormous economic pressure.

I believe the previous two panels alluded to your point when they spoke of shipper pressure. I think an example of what they are talking about is a situation where you have an owner-operator making a contract with a broker. And the broker insists this is the contract. There are 100 other guys that want this contract because there is surplus in the industry. You take it at my terms whether it is right or wrong or someone else will. And if the owner-operator is facing a second mortgage on his house, indeed his very livelihood, it makes it very difficult for him to refuse.

Mr. HITCHCOCK. I would just add a few points since it was our chart in the first place.

The point that we were trying to make was that some of the problems that you have talked about were with us a number of

years ago and have been with us for a number of years. There were operators under financial pressures back in the regulated era; there are operators under financial pressures currently. And you are right. There has to be a mechanism for trying to deal with it.

But our point is that it is not as simple as saying that before 1980 everything was okay, and after 1980 things have gone down hill. I think there are some common ground in our positions, and it is just trying to work on that and deal with the problems where they do occur without saying it is all the fault of the statute the Congress passed six or seven years ago. And the committee has taken a lead in trying to do this to date, and that is why we are supporting your bill because it does go one step further and address some significant problems.

Senator ADAMS. Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Adams. Members of the panel, thank you very much for taking your time. I thank you again for your patience this morning. It was excellent testimony and we appreciate it. We stand in adjournment.

[Whereupon, at 12:26 p.m., the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Statement of Dr. Roy Littlefield, Executive Director, Greater Washington/Maryland Service Station and Automotive Repair Association

Mr. Chairman and Members of the Committee, I thank you for this opportunity to submit to you today testimony in support of S. 747, legislation intended to establish a motor carrier administration within the Department of Transportation.

My name is Roy Littlefield and I serve as Executive Director of the Greater Washington/Maryland Service Station and Automotive Repair Association. GWMSSARA is a regional nonprofit trade association representing over 1,500 service stations, tire dealers, truck stop operators and repair shops in the District of Columbia and the State of Maryland.

We believe that S. 747, as introduced by Senator Hollings, would promote efficiency and would enhance the development of a coordinated national transportation system. The proposal has broad congressional support and has been endorsed by 17 regional and national associations whose members are critically involved in the nation's motor carrier transportation system.

Motor carriers serve an essential role in our national transportation network. The trucking industry is the largest mode of transportation in the United States, carrying the most freight, tavelling the greatest number of miles, employing the most people, and offering the greatest variety of transportation services.

Trucking operations are conducted on the roads, streets, and highways of every city, town, county, and state in the nation. They have a daily impact on the motoring public and on every facet of the country's economy.

Trucking created in 1966, the Department of Transportation has housed a number of administrative agencies which represent specific modes of transportation, including the Federal Aviation Administration, the Urban Mass Transportation Administration, and the Federal Railroad Administration.

While the motor carrier industry is the nation's largest mode of transportation, there is no single organizational entity in the Federal government which represents the industry and serves as the principal outlet for information to the public. Questions and concerns are diverted to the Federal Highway Administration, the Bureau of Motor Carrier Safety, and the National Highway Traffic Safety Administration.

S. 747 would simply create a modal administration within the Department of Transportation that would consolidate bus and trucking functions currently spread throughout the DOT. The newly established Motor Carrier Administration would facilitate truck and bus operations to benefit public and private interests, would fulfill DOT's policies relative to transportation, technological development, safety, environment, and consumer interests. It would also provide comprehensive research, planning, and programming for the Department of Transportation and for Congress.

GWMSSARA strongly supports S. 747 and asks the committee for timely consideration. We believe that if adopted, S. 747 would promote efficiency, would improve transportation policy coordination, and would improve our transportation system. And it will correct what we believe is an obvious deficiency in the Department of Transportation. Thank you for considering our views, and thank you for your continued support of the independent automotive aftermarket.

Statement of the Motor Vehicle Manufacturers Association of the United States, Inc.

The Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), whose members produce 98 percent of all domestic motor vehicles, submits the following comments for the record of the Surface Transportation Subcommittee's July 15, 1987 hearing on S.747, legislation to establish a Motor Carrier Administration within the Department of Transportation, and S. 861, the "Truck and Bus Safety Act of 1987":

MVMA recognizes and supports the role of Congress in assuring prompt resolution of public safety concerns. In many respects, the safety goals of S. 861 are essentially the same as those now being explored and evaluated by the regulatory agencies and the trucking industry. MVMA believes, however, that, if they are determined to be appropriate, these safety objectives should be pursued through the normal administrative rulemaking process at the Department of Transportation. Legislated rulemaking schedules such as those prescribed by S. 861 may actually prove to be counterproductive by forcing the final adoption of incompletely evaluated, sub-optimal solutions to complex safety issues.

The more technologically complex the issue, the greater the danger that a legislated rulemaking schedule will produce inefficient or even unworkable "remedies." Thus, in the case of S. 861, we are particularly concerned about an unnaturally accelerated schedule for heavy truck brake systems, which must perform appropriately and with durability under a wide range of driving conditions—speeds, loads, environmental conditions, vehicle configurations—considerations which greatly complicate the demands on these systems. Prematurely mandated braking system modifications without adequate testing under real world conditions would likely fail to reflect all these considerations and could well lead to systems which perform well under certain circumstances but poorly under others. The anti-lock systems that were installed to meet the National Highway Traffic Safety Administration's mid-1970's standard (FMVSS 121) are prime examples of these problems.

The provisions of S. 861 which would require immediate rulemaking would have a particularly deleterious effect on the extensive field study of truck air brake anti-lock systems that is even now being planned by NHTSA. This field study—involving some 200 trucks in "real world" service—will enable the agency, manufacturers and users to evaluate different anti-lock systems on different vehicle types and in different vocational uses. It will provide a practical basis for the agency to decide if and how to proceed with regulatory action. Practicability and effectiveness of various concepts for anti-lock can be determined from real world experience, not projected from laboratory experiment. It was the absence of such field test projects that lead to the ill-fated braking systems of the early 1970's.

We believe dialog between government and industry through the regulatory process offers greater opportunity for effecting real safety benefits than would be possible under legislated rulemaking. However, under the strictures of the Administrative Procedures Act, once rulemaking begins all informal contacts are inhibited. Free exchange of information advancing all parties' state of knowledge is replaced by legalistic posturing and, frequently, adversarial proceedings. Efficient and effective solutions to complex technical issues, such as truck braking, are not fostered by such an adversarial environment.

We recognize the legitimate Congressional interest in securing the prompt implementation of appropriate solutions to public safety concerns, but believe that these objectives are best achieved through oversight of the normal administrative rulemaking process.

With respect to S. 747, MVMA endorses the creation of a Motor Carrier Administration with the authorities delineated by this legislation. If all other major transportation modes have their senior level spokesperson within the Department of Transportation, so too should the motor carrier industry.

We applaud the inclusion of language in Section 2 of S. 747 specifically prohibiting transfer of new vehicle safety standards setting authority from the National Highway Traffic Safety Administration to a Motor Carrier Administration. NHTSA has in force more than 40 Federal Motor Vehicle Safety Standards applicable to cars and light-, medium-, and heavy-duty trucks. Artificially separating authority over standards applicable to certain trucks could result in conflicting interpretations of existing standards and inconsistencies in the application of future standards to different classes of vehicles. Such conflicting views could greatly complicate standards compliance by vehicle manufacturers, without advancing safety.

Other NHTSA functions affecting all classes of vehicles similar should not be split between two agencies. NHTSA's accident data collection and analysis activities, for example, cover all classes of vehicles and should not be artificially divided among agencies by vehicle type. Many of NHTSA's vehicle safety research activities might also suffer if subdivided among agencies according to vehicle size or type.

Statement of the National-American Wholesale Grocers' Association

Mr. Chairman and Members of the Subcommittee: I am Denis R. Zegar, Vice President for Government Services of the National-American Wholesale Grocers'

Association ("NAWGA"). NAWGA is pleased to have the opportunity to submit this testimony in support of S. 861, the Truck and Bus Safety Act of 1987, introduced on March 26, 1987 by Senators Danforth and Adams.

I. INTRODUCTION

NAWGA is a national trade association representing nearly 400 independent wholesale grocers and food service distributors whose primary line of business is the supply and service of independent grocers throughout the United States and Canada. The independent grocer still represents over 50% of the total retail sales in this country and is one of the strongest segments of independent businessmen in the nation. NAWGA member companies employ over 350,000 people nationwide. These companies, both large and small, supply grocery products and provide a wide array of services to retail grocery stores, hospitals, schools, restaurants and other food service establishments throughout the United States. Marketing products from nearly 1,000 separate distribution centers, NAWGA member companies account for nearly $60 billion of the nation's grocery product volume and one-third of the grocery supply distributed nationally. NAWGA's food service division, the International Food Service Distributor's Association, represents member firms who sell annually over $10 billion in food and related products to the institutional, away-from-home food service market. NAWGA provides research, technical, educational and government service programs on behalf of its members.

The overall issue of safety in trucking operations has always been of fundamental concern ot NAWGA's members. Virtually all of its member firms maintain extensive private carriage fleets to facilitate their food and wholesale endeavors. In addition, NAWGA members are shippers and receivers of food product lines that are picked up and delivered to them by hundreds, if not thousands, of for-hire motor common and contract carriers under the jurisdiction of the Interstate Commerce Commission ("ICC"), as well as by independent owner-operators. Many NAWGA members themselves have also obtained supplemental motor carrier operating authority issued by the ICC. This authority is utilized to offer incidental or supplemental for-hire service to shippers requiring such service where the offering complements the on-going proprietary trucking operations of NAWGA members. Thus, NAWGA members have a particularly strong interest—as shippers, private carriers, and for-hire carriers—in trucking safety.

Indeed, the overall issue of safety in trucking operations has always been of vital interest to NAWGA's members. Those members recognize that compliance with safety requirements is not only of critical importance for obvious safety reasons, but that it is also good business. The very nature of the transportation of food products demands both extreme care and prompt delivery schedules. This is true whether the NAWGA member is utilizing its own proprietary fleet or is purchasing, as a shipper or reciever, trucking service from ICC-regulated or exempt for-hire carriers. The level of competition in the wholesale grocery industry also requires that effective and safe trucking be of paramount concern to NAWGA members. The members cannot jeopardize their primary business activity by practicing anything less than the highest level of safety compliance. To do otherwise would reduce the efficient operations of wholesale grocers and raise the cost of public liability insurance even higher.

In furtherance of this concern of its members for truck safety, NAWGA conducts many programs and seminars to educate its members about the state and federal safety requirements as enunciated by the United States Department of Transportation and individual state agencies. To enhance this educational process, NAWGA has recently published the NAWGA Truck Safety Manual. This Manual is supplied to each NAWGA member and is updated at least once a year with appropriate supplements so as to apprise NAWGA members of changes in or additions to safety regulations affecting trucking operations. This is an ongoing publication of NAWGA which has been well-received by its members.

As a result of their concern for, and attention to, highway safety, NAWGA members have an outstanding safety record as both proprietary and for-hire carriers. They intend to make every effort to insure maintenance of this record, not only to further their primary business interest but also, consistent therewith, to maintain the most effective control on insurance premium expenditures. It is thus in this context that NAGA views S. 861, the Truck and Bus Safety Act of 1987.

II. COMMENTS IN SUPPORT OF S. 861

S. 861 deals with several important issues relating to truck and highway safety. First, the Act would apply the federal motor carrier safety regulations to those

motor carriers and their drivers who operate within a municipality or commercial zone thereof, and who are at present exempt from most of those regulations. Second, the Act requires the Secretary of Transportation to initiate rulemaking proceedings concerning (a) the need to adopt methods for improving safety, such as vehicle onboard monitoring devices to record speed, driving time and other information, and (b) the need to adopt methods for improving braking performance standards for trucks and truck trailers manufactured after July 1, 1987.

NAWGA is pleased to provide its support for this legislation, and to urge its prompt enactment. Motor vehicle and highway safety is, as noted above, an issue of overriding concern and interest to NAWGA members; it is, in addition, an issue of compelling concern for all citizens. S. 861 proposes to address that concern in two ways—by expanding the scope of the regulations applicable to commercial motor vehicles and by directing the institution of Department of Transportation proceedings to investigate ways in which those motor vehicles can be made safer.

This approach to highway safety is consistent with the long-standing efforts of NAWGA and its members to improve the safety of motor vehicles and their drivers, and thereby make our highways safer for all who use them. In furtherance of that effort, NAWGA endorses the enactment of specific legislation dealing with identifiable safety issues, and the vigorous enforcement of such laws once enacted. In short, it is legislation such as S. 861, which proposes remedies and procedures to address safety issues, that promises the surest means for improving highway safety by removing unsafe vehilces and drivers from the roads.

This legislation not only represents another important step in upgrading the overall safety of truck operations—for which NAWGA commends the Subcommittee and the Congress—but it is significant, in NAWGA's view, that it proposes to do so without embroiling the safety issue in the debate over economic regulation of the trucking industry, as is so frequently occuring today. To the extent safety problems exist, NAWGA believes that laws correcting those problems must be enacted, and just as importantly, they must be vigorously enforced. In short, the way to achieve improved highway safety is the strict enforcement of laws directed at the safety performance of trucks and drivers. It is not achieved by attempts to couple safety issues with the issue of economic regulation of the trucking industry. In fact, studies conducted by the Department of Transportation concerning the effect of the Motor Carrier Act of 1980 on truck safety have shown that no evidence exists linking the presence or absence of economic regulation with the safety performance of motor carrier operations. Unfortunately, the continued debate over this alleged correlation often causes safety issues to become obscured in that debate.

NAWGA is a strong supporter of both economic deregulation of the trucking industry and of strict and vigorous enforcement of all safety laws applicable to motor vehicle operations. It strongly believes that this country can have, and indeed needs, both; it further believes, however, that they are separate and distinct issues which should be treated as such by the Congress. NAWGA is, thus, pleased to support this leglislation, which addresses safety concerns wholly, and properly, apart from the economic regulation issue.

The specific provisions of this legislation will, in NAWGA's view, have a beneficial impact on highway safety. Application of the federal motor carrier safety regulations to municipal and commercial zone operations will fill a longstanding gap in the application of highway safety laws. Likewise, the Act's direction that the Secretary of Transportation initiate proceedings to adopt methods to improve safety, including the establishing of onboard monitoring devices and improved braking performance standards, are important steps in further improving vehicular and highway safety. NAWGA strongly endorses the exploration of any methods to achieve that result, including those mentioned in this legislation. It thus intends to fully participate in the proceedings to be instituted as a result of S. 861, and to assist the Secretary in any way it can in devising additional safety improvement methods.

III. CONCLUSION

For these reasons, the National-American Wholesale Grocers' Association respectfully urges the Congress to promptly enact S. 861.

STATEMENT OF THE NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

Mr. Chairman and the members of the Subcommittee, the National Association of Wholesaler-Distributors (NAW) appreciates this opportunity to present our views concerning S. 861, the Truck and Bus Safety Act of 1987.

The National Association of Wholesaler-Distributors: The National Voice of Wholesale Distribution.—NAW is a federation of 125 national (see Appendix A) and 60 state and regional wholesaler-distributor trade associations, with an aggregate membership of 45,000 firms operating at approximately 150,000 locations throughout the nation. Wholesaler-distributors provide the critical link in the marketing chain between manufacturers and all product users. While NAW members range from very small to very large firms, the industry is dominated by small to mid-size, closely-held, labor intensive businesses providing stable, well-paying jobs to over 5 million Americans.

NAW members distribute and wholesale every conceivable consumer and industrial product, and account for approximately 60 percent of the industry's total sales volume—approximately $1.4 trillion in 1985.

I. INTRODUCTION

Mr. Chairman, the objective of this legislation—to increase truck safety on the nation's highways is one that wholesaler-distributors and their employees share with the general consuming public and act upon everyday.

Unfortunately, The Act paints with a broad brush a segment of vehicles on the local highway that have nothing to do with the problems enumerated by the bill's sponsors and/or press exposes on heavy trucks.

NAW is deeply troubled by this over-broad approach; it is taken without statistical evidence showing that it is necessary to eliminate the commercial exempt zone provisions of the law and thereby would bring wholesaler-distributors under the Federal Motor Carrier Safety Regulations which were not written to deal with our industry, but with the long-haul, over-the-road tractor-trailer truck.

NAW opposes the commercial exempt zone provisions of The Act for the following reasons:

First, once again an attempt is being made to bring under extensive Federal Motor Carriers Safety Regulations wholesale distribution vehicles which do not fall into the parameters of the highly publicized aforementioned press exposes.

Second, Section 204 of the Motor Carrier Safety Act of 1984 (PL-98-544) recognizes this problem by dealing only with *interstate* trucking.

Third, Section 218 of PL-98-544 specifically mandated the department of Transportation to study the delivery type vehicle and its accident rate and make recommendations to Congress regarding the appropriateness of bringing those vehicles under the Federal Motor Carrier Safety Regulations.

Fourth, most recently Section 12019 (6) of PL-99-570, the Commercial Motor Vehicle Act of 1986, also recognized the necessary differentiation between the heavy tractor-trailer truck and the smaller vehicle used by wholesaler-distributors by mandating the single license commercial driver provisions only on drivers of vehicles weighing 26,000 pounds or more.

II. THE MOTOR CARRIER SAFETY ACT OF 1984 RECOGNIZED THE NECESSITY OF DIFFERENTIATING PROBLEMS BETWEEN HEAVY DUTY AND DELIVERY VEHICLES

Section 204 of PL-98-544 states that "the provisions of this title are applicable to commercial motor vehicles used on highways in *interstate* (italics added) commerce to transport vehicles or property:

1. if such vehicles have a gross vehicle weight rating of 10,001 or more pounds;
2. if such vehicle is designed to transport more than 15 passengers, including the driver; or
3. if such vehicle is used in the transportation of hazardous materials which are transported in a quantity requiring applicability under regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act.

The subject of size and weights of trucks to be brought under the 1984 Act was hotly debated during consideration of the passage of the Act, and the definition of Section 204 was drafted extremely carefully with the assistance of Senators Danforth and Hollings to be sure that there was no intent being implied by Congress that commercial motor vehicles in *intrastate* commerce should be subject to provisions of the Act.

NAW believes the situation has not factually changed today and that there is no more substantiation to recommend the provisons of Section 3 of S. 861 which would eliminate the commercial exempt zone from the Federal Motor Carrier Safety Regulations, as vehicles operating basically in *intrastate* commerce.

III. SECTION 218 OF MOTOR CARRIER SAFETY ACT OF 1984, PL-98-544, MANDATES INTRASTATE STUDY

As one of the highly active organizations in the development of the Motor Carrier Safety Act of 1984 (see page S. 39, Congressional Record, January 3, 1985), Section 218 "The Study of Safety Performance of Commercial and Motor Vehicles" was added to the Act. The Section "requires the Secretary to conduct a study of the safety performance of commercial motor vehicles. The study is to examine the effectiveness of the individual state safety regulations governing the operations of trucks and buses in promoting safety and investigate the need to subject such operations, in whole or part, to the Federal Commercial Motor Vehicle Safety Regulations. The Secretary is to submit to Congress or report on the findings of this study within two years after the date of the enactment of this Act."

This section was added with the help of Senators Danforth and Hollings solely to address the lack of statistical evidence to warrant inclusion of the wholesaler-distributor type delivery vehicle under the Federal Motor Carrier Safety Regulations. As of this date, that study and the required DOT recommendations have not been forthcoming. It is our understanding in discussions with DOT that the study should be available sometime in the Fall of 1987.

Previously, the attempts to bring the smaller vehicle operating in intrastate commere, or within a commercial exempt zone, under the regulations had been based upon roadside inspections by the then Bureau of Motor Carrier Safety and the resultant sanctions placed against those vehicles. Those vehicles could not be correlated to the wholesaler-distributor-type delivery vehicle, but were inspections of long-haul, over-the-road tractor-trailer trucks. By inserting the Section 218 study in the 1984 Act, Congress recognized the lack of statistical evidence supporting the need for such regulation without having a sound basis to do so and placed the mandate on DOT to find out what the facts really are, then recommend actions to Congress.

NAW will work with the Committee to address the issue once DOT has completed its study, and we have had the opportunity to review the statistical analysis and recommendations of the study. However, we continue to believe it's inopportune, as it has been in the past, to legislate in an area over which there is no demonstrated need.

IV. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 RECOGNIZED WEIGHT DIFFERENTIATION NECESSITY

In adopting PL-99-570 in October of 1986, which required among other things, that it be illegal for an operator of a commercial motor vehicle (truck or bus) have more than one driver's license, Congress recognized the difference in expertise required to drive a heavy truck over the light delivery vehicle. The Act requires DOT to develop uniform standards for testing and licensing of operators of vehicles of over 26,000 pounds GVWR (gross vehicle weight rating). This is another example of Congressional recognition that major differences exist in the qualifications necessary and the inherent dangers of the equipment between the lighter weight delivery vehicle—versus the tractor-trailer truck.

V. CONCLUSION

Mr. Chairman, NAW again expresses its sincere concern over safety of trucks on the highway and understands the impetus for legislation created by press exposes dealing with heavy trucks.

It is our hope that the broad brush application of the horror stories regarding large trucks do not inadvertently fall upon the lighter *intrastate,* or *commercial exempt zone,* wholesaler-distributor delivery vehicle. Our members who have an excellent safety record would find compliance with the Federal Motor Carrier Safety Regulations, which were written for the long-haul over-the-road heavy truck and not our vehicles, extremely burdensome.

We would urge first of all that Section 3 of S. 861 be deleted at this time until the Section 218 study of the Motor Carrier Safety Act of 1984 is completed and we all have facts upon which to make a reasoned judgement as to whether or not the applicability of such regulations would have a safety benefit. That is not only your goal but ours. We only wish to be assured that we are the culprits before the penalties of attempting to comply with all of the Federal Motor Carrier Safety Regulations are placed upon our industry in *intrastate* commerce and in *commercial exempt zones.*

Secondly, if this Subcommittee in its wisdom decides to go ahead and adopt the elimination of commercial exempt zones as enumerated in the bill, without having

statistical evidence pointing to its need, NAW would urge that at a minimum, Section 3 line 12 be amended following the word municipality to read ". . . of vehicles of over 26,000 lbs. GVWR."

The latter is not a really acceptable alternative to the wholesaler-distribution industry but would somewhat mitigate the impact of a total repeal of commercial exempt zones as contemplated in the bill.

Thank you for consideration of NAW's views and we stand ready to assist you in any way in developing meaningful and necessary truck safety legislation.

Statement of the Regular Common Carrier Conference

Mr. Chairman and members of the Senate Committee on Commerce, Science and Transportation, the Regular Common Carrier Conference (RCCC) appreciates the opportunity to submit this statement on behalf of the general freight trucking industry on S. 747.

This bill would create a Motor Carrier Administration (MCA) within the United States Department of Transportation (DOT). It would perform functions similar to those carried out by the Administrations which oversee the rail, air and other transportation modes. It would reorganize and consolidate within the Motor Carrier Administration the trucking and bus functions that are currently spread throughout DOT. Therefore, it would provide a more coherent, efficient structure for DOT to fulfill its transportation responsibilities relating to truck safety, productivity, research, planning and environmental and consumer protection. An Administrator appointed by the President would oversee and coordinate these functions, as well as other duties delegated by the Secretary of Transportation, with one exception. The National Highway Traffic Safety Administration would retain authority over motor vehicle safety standards applicable to the manufacture of trucks and buses. In addition, Section 3 of the bill requires the Secretary of Transportation and Chairman of the Interstate Commerce Commission (ICC) to review and make recommendations to Congress regarding ICC activities which could be performed more efficiently by the Motor Carrier Administration.

SUMMARY OF POSITION

The RCCC supports the creation of a Motor Carrier Administration because it will promote truck safety, productivity, and research to the benefit of the nation. It will further long range truck transportation planning and provide the mechanism for a true working partnership between the federal government and the trucking industry.

We oppose, however, Section 3 of the bill and recommend its deletion. This provision is inconsistent with, and outside the scope of, the objectives of providing the motor carrier industry with representation equal to that enjoyed by the modes and reorganizing the functions within DOT to more efficiently achieve its transportation objectives. Section 3 is a mechanism through which regulatory functions currently performed by the ICC, an independent agency accountable to Congress, may be transferred to DOT, which is accountable to the Executive Branch. It would result in motor carrier regulatory decisions being made for political and philosophical reasons, rather than being based on sound economic and transportation justifications. Since the current Administration and DOT have endorsed legislation to deregulate the trucking industry, it would be inappropriate to entrust DOT with those regulatory functions currently performed by the ICC.

The RCCC shares the interests of Congress in ensuring that any new administration not perform duplicative functions. However, this goal can be achieved simply by requiring DOT to review the functions of the Motor Carrier Administration to ensure that they do not duplicate existing ICC functions.

IDENTIFICATION

The RCCC is a national trade association for the general freight trucking industry which represents approximately 500 trucking companies that transport general commodities throughout the United States under operating authority granted by the Commission. These trucking companies operate principally as motor common carriers transporting truckload and less-than-truckload shipments for shippers under rates on file with the Commission. The RCCC trucking companies serve the needs of a substantial portion of the general freight shippers and receivers throughout the country.

These general freight carriers operate hundreds of thousands of tractors and trailers, employ more than 300,000 workers and have annual revenue of approximately $18 billion.

We support the creation of a Motor Carrier Administration because it will promote truck safety and productivity to the benefit of all.

THE CREATION OF A MOTOR CARRIER ADMINISTRATION IS IN THE PUBLIC INTEREST

There is a serious need for the creation of a Motor Carrier Administration that can efficiently and timely handle the important federal duties of promoting truck safety, productivity, environmental protection and research. Currently these functions are dispersed throughout DOT which makes it difficult for the industry, government and public to obtain the necessary input and information.

A Motor Carrier Administration would create a partnership between the trucking industry and the federal government in the development of national transportion policies. That is unfortunately not the situation today. For example, the trucking industry has been denied input and representation by DOT in its meetings with Canada to resolve transborder trucking problems. The lack of a Motor Carrier Administrator has also meant that the trucking industry's major concerns with safety, productivity and taxation are handled by a department, the Federal Highway Administration (FHWA), whose main responsibility and interest lies in highway construction and maintenance. Consequently our objectives receive lower priority. An adversarial relationship sometimes develops. For example, for several years FHWA has refused to take affirmative action to require some recalcitrant states to comply with the Surface Transportation Assistance Act of 1982 which allows longer and wider vehicles to operate on our Interstate Highway System and to make pick-ups and deliveries. It as failed to adopt regulations that would resolve the matter. Since the states are FHWA's best clients in the field of highway construction and maintenance, the trucking industry's concerns often take a back seat. The trucking industry and FHWA disagree on how to fairly allocate the costs for highway construction and repair. The highway construction viewpoint repeatedly has prevailed over the highway users interests. A Motor Carrier Administrator, who would examine the larger picture, would give the industry a more objective decisionmaker. Such a result is in the interests of the nation. To the extent the industry increases its productivity, the consumers benefit from lower transportation costs.

A Motor Carrier Administration would also provide a better forum for truck research and development. For fiscal year 1988, FHWA has requested research funding of $20 million. Yet less than two (2) percent of that is for truck research—notwithstanding that the trucking industry is the largest transportation mode. By comparison, the Federal Railroad Administration provides aggressive federal leadership for the rail industry. Its Office of Policy routinely conducts traffic studies, economic forecasts, financial analyses and other research designed to assist that industry. Indeed, its stated objective is to provide "for the development of policies designed to promote the railroad mode within the transportation sector".

The trucking industry is the only major transportation mode that lacks an administration within DOT. The Administration structure within DOT has worked effectively for the rail, air and water industries; it should also do so for the trucking industry. It is important to emphasize that a Motor Carrier Administration will not create a costly, additional bureaucracy. It is projected to cost approximately two million dollars a year. The reorganization of functions should avoid and save some administrative expenses.

The RCCC recommends that the Motor Carrier Administration be authorized to perform all the functions now handled by the Office of Motor Carriers. They include the Motor Carrier Safety Assistance Program, the size, weight and length provisions of the Surface Transportation Assistance Act of 1982, the safety responsibilities under the Motor Carrier Safety Act of 1984, and the recent commercial driver's license program. See, 49 U.S.C. §§ 23, 25 & 27. We agree with the bill's proposal to retain National Highway Traffic Safety Administration's jurisdiction over motor vehicle safety standards applicable to the manufacture of trucks and buses. Moreover, we recommend that the functions now performed by the Research and Special Program Administration be retained because it performs a multimodal function.

CONGRESS SHOULD NOT ENDORSE A TRANSFER OF ICC FUNCTIONS TO DOT

The RCCC respectfully recommends that Section 3 of the bill be deleted. Section 3 provides that within six months after enactment, the Secretary of Transportation and ICC Chairman shall review all the activities performed by the ICC and make

recommendations to Congress regarding which functions should be transferred to the Motor Carrier Administration.

The objective behind this provision is unclear. If, on the one hand, it is designed to avoid a costly, inefficient duplication of functions by the ICC and the MCA, this objective can be accomplished simply by requiring the Secretary of DOT to review all the MCA functions to ensure they do not overlap with current ICC functions, or for that matter, the functions of other departments within DOT. The RCCC wholeheartedly supports the efforts of Congress to streamline administrative activities and eliminate wasteful, duplicative functions. If that is the goal, it can be accomplished through this procedure.

On the other hand, since Section 3 can facilitate the transfer of ICC functions to DOT, it should not be adopted. As Congress is well aware, the ICC is an independent agency. It is more accountable to Congress than DOT, which is an agency of the Executive Branch. DOT has repeatedly introduced or endorsed bills to totally deregulate the trucking industry and sunset the ICC. Surely, it is unwise to enable a transfer of ICC functions to DOT when its steadfast position is that all the ICC regulatory functions should be abandoned. Section 3 puts the fox in charge of the chicken coop. Congress should continue to address the question of trucking regulation on its merits. It has bills pending that address this matter and on which all interested parties can comment.

As it stands, Section 3 can be used as a backdoor approach to administratively deregulate the trucking industry in violation of the Motor Carrier Act of 1980. For this reason, the general freight trucking industry recommends that Section 3 be deleted.

STATEMENT OF TERRY WESTHAFER, PRESIDENT, AMERICAN RETREADERS' ASSOCIATION

Mr. Chairman and Members of the Committee, I am grateful for this opportunity to submit to you testimony in support of S. 747, legislation which would establish a motor carrier administration within the Department of Transportation.

My name is Terry Westhafer and I serve as President of the American Retreaders' Association. ARA is a national nonprofit trade association representing approximately 1700 small businesses nationwide who are engaged in the retreading of tires, the repairing of tires, and the sale of related products and services. I am a small businessman, operating Central Tire Corporation in Verona, Virginia.

As introduced by Senator Hollings, this measure would promote efficiency and would enhance the development of a coordinated national transportation system. S. 747 has widespread support in both the House of Representatives and in the Senate. ARA is one of more than 15 national associations whose members are critically involved in the nation's motor carrier transportation system which has endorsed the proposed legislation.

Motor carriers serve an essential role in our national transportation network. The trucking industry is the largest mode of transportation in the United States, carrying the most freight, travelling the greatest number of miles, employing the most people, and offering the greatest variety of transportation services.

Trucking operations are conducted on the roads, streets, and highways of every city, town, county, and state in the nation. They have a daily impact on the motoring public and on every facet of the country's economy.

Since created in 1966, the Department of Transportation has housed a number of administrative agencies which represent specific modes of transportation, including the Federal Aviation Administration, the Urban Mass Transportation Administration, and the Federal Railroad Administration.

While the motor carrier industry is the nation's largest mode of transportation, there is no single organizational entity in the Federal government which represents the industry and serves as the principal outlet for information to the public. Questions and concerns are diverted to the Federal Highway Administration, the Bureau of Motor Carrier Safety, and the National Highway Traffic Safety Administration.

S. 747 would simply create a modal administration within the Department of Transportation that would consolidate bus and trucking functions currently spread throughout the DOT. The newly established Motor Carrier Administration would facilitate truck and bus operations to benefit public and private interests, would fulfill DOT's policies relative to transportation, technological development, safety, environment, and consumer interests. It would also provide comprehensive research, planning, and programming for the Department of Transportation and for Congress.

ARA contends that S. 747 will promote efficiency, will improve transportation policy coordination, and will improve the nation's transportation system. And it will

address and begin to correct an obvious deficiency in the Department of Transportation. We urge you to adopt S. 747, and we thank you for your continued support of the trucking and tire retreading industries.

FENTRESS INC.,
Petersburg, VA, July 10, 1987.

Senator J. JAMES EXON,
Chairman, Subcommittee on Surface Transportation, Ground Transportation Subcommittee, U.S. Senate, Washington, DC.

DEAR SENATOR EXON: My name is Bill Fentress, I am President of Fentress, Incorporated. My business is the sales and service of truck safety equipment.

The purpose of this letter is to endorse enthusiastically Senate Bill S. 861 introduced on March 24, 1987 by Senators John C. Danforth and Brock Adams. The Bill, among other things, would direct the Secretary of Transportation to initiate rule making proceedings on the need to adopt methods for promoting safety in the trucking industry. The bill will be the subject of hearings before the Surface Transportation Subcommittee of the Commerce, Science and Transportation Committee on July 15, 1987 at 9:30 a.m.

In acting upon the Bill, I would encourage the Subcommittee to consider whether or not the Bill sufficiently addresses what is perhaps the most serious safety issue in the trucking industry today, that being the prevention of accidents causes by or resulting in jackknifing of tractor-trailers. With that in mind, I respectfully suggest that the Bill should be amended to include among the safety methods to be considered by the Secretary of Transportation the need to require installation of devices that restrict the trailer from striking the tractor's cab (commonly referred to as fifth wheel devices). There are several competitive devices that fulfill this equipment currently available, and they have been successfully tested by various agencies. In this regard, I attach for your consideration a copy of the Proposed Minimum Standards for Training Tractor-Trailer Drivers, issued by the U.S. Department of Transportation and Federal Highway Administration, a 1983 Winter Test Report issued by the Winter Driving Hazards Committee of the National Safety Council, and an article published in the Trucking News, which is published by the Safety Appliance Engineering Corporation.

For the reasons stated in the paragraph above, I respectfully request that the Surface Transportation Subcommittee amend Senate Bill S. 861 by inserting immediately after the word "including" on page 4 line 2 of the Bill, the following language:

"Control of jack-knifing and related situations with safety devices attached to the tractor fifth wheel (as recommended by the Department of Transportation and the Federal Highway Administration under its Proposed Minimum Standards for Training Tractor-Trailer Drivers.).

Finally, I would like also to endorse the provision of Section 4(a) of the Bill, which refers to vehicle on-board monitoring devices. Such devices promote safety and accident prevention efforts by providing a record of driver actions in the critical moments just prior to an accident.

Thank you very much for our consideration of these comments.

Very truly yours,

WILLIAM L. FENTRESS,
President.

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Office of the Executive Vice President

1987 SEP PM 2:43

September 23, 1987

The Honorable James J. Exon
Chairman
Subcommittee on Surface Transportation
Committee on Commerce, Science
and Transportation
United States Senate
SH-428 Hart Office Building
Washington, DC 20510

Dear Chairman Exon:

The National Industrial Transportation League respectfully requests that the following comments be made part of the record for your subcommittee's hearing on S. 861, Truck and Bus Safety Act of 1987, and S. 747, which would create a Motor Carrier Administration within the Department of Transportation.

The League is a voluntary association of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with the purchasing of freight transportation services. It is the only nationwide organization representing shippers of all sizes and commodities using all modes of transportation to move their goods in intrastate, interstate, and international commerce. Its members, directly or indirectly, are responsible for the routing of about 80 percent of the nation's commercial freight.

The League supports the subcommittee's efforts to improve highway safety. However, we are concerned about the feasibility of certain of S. 861's provisions.

With respect to S. 747, the League sees no need at this time to create a Motor Carrier Administration within the DOT. However, if an economic deregulation measure were to be enacted into law, creation of a MCA might merit further consideration as we determine the best means of reallocating the Interstate Commerce Commission's residual regulatory functions.

With respect to S. 861, the League strongly supports elimination of the current exemption for commercial zones from federal safety requirements. When first granted, this exemption adequately addressed the emerging trucking industry's safety needs. However, given the expansion of our urban areas, the time has come to assure improved highway safety through uniform application of federal safety rules and regulations.

In addition, the League supports voluntary use of on-board monitoring devices to better assure compliance with hours of service and other federal safety regulations. However, we do not support mandatory use of this equipment.

We take this position because of the current state of technology. Given the proliferation of available devices and the innovations which will lead to better, more efficient equipment, we believe that additional study is needed to identify the most useful of these, and to allow this technology to be more fully integrated into the marketplace.

In addition, we concur in the supplemental comments of the Private Truck Council of America, who noted that further study is needed in determining what role fatigue plays in truck-related accidents, and the need for inspection and enforcement personnel to be able to use recorded data. We also share its concern about the rebuttable presumption created by the bill's current wording and the practicality of the imposed time limits.

We appreciate this opportunity to present the views of the shipping community, and look forward to working with you and your staff on this issue.

If you have any questions or wish to discuss the matter further, please do not hesitate to contact me.

Sincerely,

James E. Bartley

James E. Bartley
Executive Vice President

PRIVATE TRUCK COUNCIL of AMERICA, Inc.

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Citgo Petroleum Transportation Addison, TX

*Past President

July 27, 1987

The Honorable James Exon
Chairman, Surface Transportation
Subcommittee
United States Senate
Washington, D.C. 20510

Dear Senator Exon:

The Private Truck Council of America, Inc. ("PTCA") wishes to supplement the hearing record of July 15, 1987 with the following material. PTCA asks that this letter be included in the record of the subcommittee hearing on S. 861 and S. 747.

SAFETY IN THE MOTOR CARRIER INDUSTRY

Contrary to several media accounts, trucking safety has improved steadily since the late 1970's. Figures for reported accidents (when adjusted for inflation in the property damage reporting threshold), injuries and fatalities all show a downward trend since 1979. In addition, the Fatal Accident Reporting System of the National Highway Traffic Safety Administration shows a slight decline in the number of fatalities from truck-involved accidents; however, fatalities per million vehicle miles has dropped dramatically as the number of vehicle miles traveled has increased.

Without doubt, legislation generated by this subcommittee has led to the improved safety performance of the trucking industry. The Motor Carrier Safety Assistance Program, established in the Surface Transportation Assistance Act of 1982, has put 4,000 new state safety inspectors and carrier auditors into the enforcement scheme. Under this program, some 1.2 million unannounced roadside inspections of drivers and equipment are being conducted in this fiscal year.

In addition, the Motor Carrier Safety Act of 1984 facilitated prosecution of safety rule violations and increased the available sanctions (civil and criminal penalties) for non-compliance. And the Commercial Motor Vehicle Safety Act of 1986, once fully implemented, should substantially improve the professional quality of truck drivers by requiring that drivers carry only a single license and by upgrading the testing and qualification standards for drivers.

COMMERCIAL ZONE EXEMPTION REPEAL

PTCA strongly supports repeal of the exemption from the Federal Motor Carrier Safety Regulations for operations occurring wholly within a commercial zone. This represents a recent change in policy for our organization. As we stated in a letter dated April 28, 1987 to the Federal Highway Administration:

> Although PTCA filed comments on March 12, 1985 in Docket No. MC-114 supporting continuation of the commercial zone exemption, our Board of Directors reconsidered this policy at a meeting held April 8, 1987. By a unanimous vote, the PTCA Board agreed to support a repeal of the exemption, either by rulemaking or statute. The vote on reconsideration reflects changed circumstances in the area of motor carrier safety, most notably a heightened awareness of the need for stringent safety rules uniformly applied to all motor carriers. As presently interpreted, the commercial zone exemption is vague and leads to confusion among carriers who honestly cannot ascertain which regulations are applicable to their operations. The element of certainty from rescinding the exemption will to some extent offset the additional burden of compliance.

An additional problem with the exemption is that all but 12 states have allowed similar exemptions from state safety rules for intrastate operations within commercial zones. Thus, in most instances, no rules on driver qualifications, equipment, vehicle operations or daily pre-trip inspections apply to operations within these zones.

ON-BOARD MONITORING DEVICES

PTCA opposes the provision in S. 861 requiring the Department of Transportation to complete a rulemaking within nine months of enactment on whether to require all commercial vehicles to have on-board monitoring devices. While our member companies recognize that existing hours of service regulations are routinely violated and the handwritten logbooks are ineffective enforcement tools, PTCA believes the current legislative provision is an inappropriate mechanism to address the issue.

A PTCA member (Frito-Lay, Inc.) was the first carrier to receive an exemption from the Federal Highway Administration for electronic logbooks using on-board computers. Since then, two other PTCA members (Marathon Petroleum and Martin-Brower) have received the exemption along with four additional carriers. Initial results from Frito-Lay indicate that the drivers were receptive and the equipment functioned properly.

Many other fleets also use some type of on-board monitoring devices, ranging in sophistication from tachographs to computers. The largest immediate benefit from the devices is in fuel consumption savings from improved miles per gallon; carriers have indicated that, with proper management, the devices can pay for themselves in fuel savings within six to nine months.

The key is effective management of the recorded information. A simple requirement that the device is on the vehicle will not be effective without review from either management or enforcement officials. There must be some accessability to the recorded information at a roadside inspection checkpoint to make the device a useful enforcement tool.

Unfortunately, simply enforcing the ten-hour driving rule may not be sufficient to reduce accidents due to driver fatigue. PTCA suggests a comprehensive review of the role of fatigue in truck-involved accidents is necessary before mandating equipment regulations based on arguably faulty policy. A recent AAA foundation study concluding that fatigue was a primary cause in 41% of truck-involved accidents was, by the author's own admission, not projectable to the entire truck and driver population. Other studies have indicated that time of day may be a more important factor in predicting accidents than mere hours of driving. Still other studies show a disproportionate number of accidents in the first and second hours on duty, presumably when fatigue is not a factor.

Finally, PTCA asserts that Congress should not engage in "quasi-rulemaking" with this proposal. The language in S. 861 establishes a sort of rebuttable presumption that on-board recorders should be required in a final rule within nine months, and that DOT would need clear and convincing evidence to show otherwise. The nine month time frame is too short, and the policy questions too broad, to expect an effective rule from this provision.

BRAKING STANDARDS

Likewise, PTCA opposes the provision in S. 861 requiring a final rule within nine months on brake performance standards, particularly as it relates to antilock braking systems. At present, NHTSA is conducting an 18-month test of 200 vehicles using antilock brakes. Also, five brake manufacturers are now placing antilock systems on new vehicles for several different manufacturers. And at least two fleets have already begun testing these systems in national operations.

A nine-month final rule requirement is premature, and could well jeopardize existing research and testing by mandating equipment standards that either do not improve safety or that cannot be met by the manufacturers by the effective date. While antilock brake technology

does appear to hold great promise in enhancing brake performance, PTCA believes current industry and DOT research should continue unimpeded by statutory directive.

MOTOR CARRIER ADMINISTRATION

While there are disparities in research funding spent within DOT on the various modes of transportation, PTCA does not view a Motor Carrier Administration as necessary to correct the problem. In the last several years, motor carrier safety has received a higher priority in the Federal Highway Administration through the Associate Administrator for Motor Carriers.

The existing modal administrations in DOT serve two primary functions: to develop and maintain the nation's transportation infrastructure, and to regulate safety within the modes. FHWA currently provides these functions for motor carriers.

At times this subcommittee has expressed concern over the delay within FHWA in implementing needed safety rules and policies. We share your frustration. But the solution to the problem is to simply hold FHWA's "feet to the fire" when necessary, not to create a new layer of bureaucracy in the form of a new administration because the existing bureaucracy is not responsive. This "New Deal" philosophy of government is long gone.

PTCA fears that a Motor Carrier Administration could become a repository for ICC-type entry and rate regulations. Our members are especially concerned that a new administration would establish economic restrictions on private carrier entry (the main proponents of the Motor Carrier Administration are also advocating private carrier entry standards). Therefore, PTCA would endorse a Motor Carrier Administration only in conjunction with total economic deregulation of the trucking industry.

Sincerely,

Richard D. Henderson
Executive Vice President

Richard P. Schweitzer
Legislative Counsel

STATEMENT OF FREIGHTLINER CORPORATION ON ANTI-LOCK BRAKING SYSTEMS FOR HEAVY DUTY TRUCKS

Freightliner Corporation is a U.S. manufacturer of heavy-duty Class 8 trucks and is a wholly owned subsidiary of Daimler-Benz AG, a worldwide manufacturer of passenger cars, trucks and commercial vehicles.

Summary of Position

Freightliner Corporation offers the Freightliner/WABCO anti-lock braking system (ABS) as an option on its heavy duty Class 8 trucks. This technology is designed to aid professional drivers in avoiding accidents by providing for stability and control in emergency braking and steering situations. The Freightliner/WABCO ABS has proven itself reliable in millions of miles of testing. Truck operators may now select ABS and prove to themselves that the system is effective from an operating and a cost point of view. History has shown that customer acceptance is essential to the successful introduction of ABS on trucks. The marketplace approach to ABS in an atmosphere of cooperation must be given the opportunity to work.

Any initiative to re-regulate or legislate ABS at this time would be premature and counterproductive. It carries the risk of preventing the acceptance of ABS through demand pull rather than market push.

The Freightliner/WABCO ABS System

The ABS system prevents excessive wheel slip or lockup on each wheel of the vehicle during braking on dry, wet, or icy road conditions. Wheel speed sensors send signals to an electronic control unit which activates solenoid valves at each wheel position so that wheel slip is limited to optimum levels. This allows the driver to apply the brakes fully and, simultaneously, steer the vehicle. Controlled, stable stops would result without jackknifing.

ABS works best when it is installed on both the tractor and trailer; however, stability and control are greatly enhanced even if only the tractor has ABS.

System Reliability

The Freightliner/WABCO system was tested very extensively both in laboratory tests and in rigorous real-world applications, including test tracks near the Arctic Circle in Finland under severe snow and ice conditions. Other tests were conducted at the Freightliner test track in Madras, Oregon and at proving ground facilities across the country.

To ensure the overall integrity of the Freightliner/WABCO ABS, its individual components were tested until complete confidence in the reliability and endurance of all system components was delivered. In addition to brake functioning tests at Freightliner's testing facilities in Portland, Oregon, and Charlotte, North Carolina, parts were subjected to a wide battery of reliability tests. ABS components were subjected to radio frequency and electromagnetic tests to ensure protection against external interference by such devices as radar, citizen band radios, and television and radio transmission stations.

Since January of 1985, Freightliner trucks equipped with ABS have been tested in regular customer fleet operations. To date, a total of 23 ABS-equipped Freightliner trucks of various configurations have logged over two million miles working in customer fleets with the system performing to the fullest satisfaction.

Freightliner and WABCO believe that the system is fully developed and reliable. We are backing our position with a 3-year, 300,000 mile warranty.

Regulations and Legislation

Federal Motor Vehicle Safety Standard (FMVSS) 121 imposed "no wheel lockup" and stopping distance requirements on truck manufacturers in 1975. The technology at the time was underdeveloped to meet the requirements. Field service problems were experienced, and truck drivers were concerned about aggressiveness of the larger front brakes. Users reacted negatively, and in October 1978, the controversial provisions of 121 were suspended by Federal court mandate holding that the systems were unreliable and therefore provided no safety benefit. As a result, the trucking industry lost over a billion dollars of investment in ABS.

The experience and concerns of the past remain with many truck operators today. The confidence that Freightliner and WABCO have in their ABS system must be instilled in the marketplace. This will take time. Freightliner is convinced, however, that once the safety benefits and system reliability are accepted, then the industry will adopt ABS as necessary equipment with a measurable return on investment.

Freightliner believes that legislation which would require NHTSA to reinstate the suspended provisions of FMVSS 121 in a specific timeframe is inappropriate. It would end the cooperative atmosphere that currently prevails among the truck manufacturers, DOT, and truck operators. Positions for and against ABS would be taken based on historical attitudes rather than in an atmosphere of engineering logic and awareness of customer needs.

Freightliner applauds Congress for directing DOT to begin an Anti-lock Fleet Evaluation Program under the direction of the research arm of NHTSA. Freightliner will cooperate and support that evaluation as it proceeds. We urge Congress and DOT to give that program priority so that the safety benefits of ABS become widely known to the industry and the public at the earliest possible time.

STATEMENT OF E. JOSEPH SIMMONS, JR., ON BEHALF OF CADEC SYSTEMS, INC.

When [illegible], Inc. entered the on-board computer market in late 1982, three primary factors influenced the design of the first unit CADEC designed and built for commercial use. These factors were cost justification, impact on the truck driver and safety.

COST-JUSTIFICATION was the predominant concern, because business customers tend to make capital equipment purchases that provide a satisfactory (and usually short-term) return on investment, and they tend to avoid most other capital equipment purchases, unless such purchases are essential to the operation of their business, or unless they are required by law.

Initially, CADEC also focused its attention on medium to large size fleets, because they provided the basis for sound, economic justification that centered on four basic areas: greater fuel economy (more miles per gallon), increased productivity, reduced maintenance costs, and reduced clerical costs.

Fuel economy was the most obvious area. All other things being equal (such as ambient temperature, load and rear axle ratio), fuel economy is improved by reducing three controllable, vehicle operating parameters:

(a) the percentage of total vehicle operating time that the vehicle is operated at excessive road speed.

(b) the percentage of time the vehicle is operated at excessive RPM.

(c) and the percentage of time a vehicle engine is idling.

By reporting on these three parameters in a consistent way, an on-board computer gives management visibility on them and, therefore, the ability to control them.

In specific terms, an on-board computer can record and show the amount of time that a vehicle spends in various engine idle, RPM and road speed ranges. Please see Attachment A for a sample report. This single summarized report lets management see at a glance how their vehicles are being driven, it identifies unsafe drivers, and provides an immediate and objective basis for counseling drivers to change their driving habits.

In addition to showing a summarized matrix, the on-board computer can record and ultimately report individuals speeding events, as to date, time and duration.

Increased productivity was also a benefit that could be demonstrated to various degrees in different customer situations. For example, in situations where drivers were making frequent, lengthy unauthorized stops, the on-board computer would record these stops --the date, time, mileage into the trip, and duration. These stops could then be displayed for management

review and action if necessary. Please see Attachment C for a sample report showing Unknown Stops.

In addition to unknown stops, trip delays also represented an opportunity to improve productivity. For example, truck drivers often arrive at loading and unloading docks on time, but for reasons beyond their control they may have to wait a considerable time before disposition of their loads. If management can decrease this "wait" time, overall productivity can increase substantially.

Reduced maintenance costs were also demonstrable to the extent that they could be related to driving habits. There are definite relationships that can be drawn between the speed at which a vehicle is driven, and the wear on tires, mechanical components, and electro-mechanical components in trucks. Higher speeds usually translate to increased friction, heat, and wear on many truck components, resulting in shorter useful component lives and higher maintenance costs. Therefore, if speed is controlled, maintenance costs are controllable to some degree.

Reduced clerical costs represent a strong element of cost justification, because when the driver enters trip data through the keyboard of an on-board computer, he is recording data electronically, at the source. He is also doing with a computer, what he used to do with a pencil and paper. Typical data a driver records during a trip includes but is not limited to: (1) hours of service data; (2) state fuel tax data; (3) expense data; (4) trip data --stops, pick-ups, deliveries; (5) over, short and damaged shipments and other inventory information; (6) delays and their causes.

When a driver recorded information with paper and pencil, it eventually had to be keyboard-entered into a computer, through an intermediate data preparation step, for subsequent processing and report generation. Handwriting was often illegible, and the overall process was subject to numerous errors and time delays. The data was neither timely, nor accurate.

In contrast, when a driver enters trip information through the keyboard of an on-board computer, it is instantaneously recorded on computer compatible media, and intermediate data preparation steps and associated costs are substantially reduced or eliminated. Just as importantly, the resultant data is both timely and accurate.

In summary, we feel an on-board computer is a tool that enables fleet management to better control and plan their business, to reduce operating costs, and to improve productivity.

We recognize that the problems of small fleets and owner-operators are different than those of larger fleets, and that the aforementioned methods of cost-justification are not necessarily applicable. To date we have had no success in selling to small fleets or drivers classified as owner-operators.

IMPACT ON THE DRIVER

Impact on the driver was a critical design element, because CADEC felt on-board computers would eventually change the way drivers were managed.

At the time the first CADEC unit was being designed, other companies were offering trip recorders (vs. on-board computers) that attached directly to truck sensors and automatically collected road miles per hour and vehicle RPM. Drivers referred to these units as RAT BOXES and did not readily accept them. They generally viewed trip recorders as a management attempt to catch them doing something wrong.

CADEC took a different view. CADEC management felt that the Motor Carrier Act of 1980, and the resultant deregulation provided an historic opportunity for a partnership between labor and management. With this view, CADEC designed the first unit to offer extensive driver input; the attempt was to give the driver an automated tool that would enable him to contribute to the profitability of his company by helping to control operating costs. Much as every office worker will some day have a personal computer to facilitate his work, CADEC felt that an on-board computer would be the driver's personal computer, reducing if not eliminating his paperwork, and providing him with the opportunity to record details about his trip, when they occurred. We felt that if a company was working hard to control fuel costs, maintenance costs, data entry costs, fuel tax charges, time spent waiting at customer docks, and other measurable operating criteria, then real wages would have the best chance of growing, while at the same time, trucking companies could operate more efficiently and effectively.

Therefore, CADEC felt at the time of its initial design, and feels more strongly now, that driver involvement is an essential ingredient for both the trucking company and the driver to achieve maximum economic benefit from the use of on-board units.

SAFETY

To determine how an on-board computer could improve safety, we did some research on accidents and their causes. This was not an in-depth study; it involved a review of selected public records, interviews with fleet managers (primarily CADEC customers and prospects), and discussions with industry consultants.

As a result of this study, CADEC identified five generic causes of on-highway accidents:

(1) Speeding
(2) Equipment Failure
(3) Driver Fatigue
(4) Operating under the influence of controlled substances
(5) Chance Occurrences

Design of the CADEC unit proceeded with the belief that the first four items could be controlled by a company with committed management, and the last one could be statistically improved.

The following paragraphs will discuss our views on how an on-board computer can specifically help management control these aforementioned five areas and improve safety.

(1) Speeding. An on-board computer constantly and reliably monitors how fast a vehicle is being driven. At the end of each trip, management has a picture of the amount of time a driver spent in various speed ranges, as well as a detail record of each speeding event. (Please see Attachment A for a sample report). Based on this trip information, management can counsel drivers who speed, and take effective measures to combat poor driving habits. (It's noteworthy that in some situations, company managements increase safe driving motivation by implementing an incentive program that is based on the percentages of total trip time that a driver spends at overspeed, excessive RPM levels and engine idling. The on-board computer is the cornerstone for this program; such a program could not be implemented without it).

(2) Equipment Failure. At the present time, there is little that an on-board computer can do to automatically monitor all the safety systems in a vehicle. The major reason is cost, but the consistent reliability of available sensor technology is also a factor. It's technologically possible to attach sensors to every safety related system in a vehicle. These sensors are expensive, often difficult to install, and require special cabling and shielding. In brief, exotic safety monitoring systems are not cost effective. Trucking companies that properly maintain their fleets don't need them, and companies/drivers who use marginal equipment wouldn't buy them even if they were available.

At the present time, the on-board computer can request that a driver conduct a safety inspection of his vehicle and verify that the unit is safe to operate, before allowing the driver to enter any other transactions.

Within five years, however, this picture will change as a result of new developments in truck manufacturing. An ATA (American Trucking Association) standards committee is now actively defining a standard for communication between subsystems in trucks. It is envisioned that various vehicle subsystems -- brakes, engine, transmission, etc. will eventually interface-to and pass data across this common communications path. The On-board computer will also interface to the ATA bus and will record the various readings from the independent vehicle subsystems. At that point in time, the on-board computer will be capable of running some diagnostic system safety checks and identifying some potential safety problems before they become hazards.

(3) Driver Fatigue. Our independent research concluded driver fatigue to be one of the leading causes of on-highway accidents. Although federal regulations clearly stipulate how long a driver can be on duty, how long he can drive, and what the rest requirements are, these regulations have been largely nonenforceable because they rely on the driver completing a hand-written log, and because there is no adequate system of checks and balances to assure that the logs are properly completed and hours-of-service regulations are honored. These logs can be falsified, especially in certain sectors of industry where price competition is intense.

As a result of our research and in cooperation with Frito-Lay, Inc. of Dallas, Texas, CADEC installed the first operational, electronic log system in 1985 under an exemption that was granted to Frito-Lay of Dallas, Texas by the Bureau of Motor Carrier Safety (BMCS). The words "electronic log system" are used, rather than "on-board computer log", because the Frito-Lay, Inc. system was an integrated management information system approach that sought to prevent hours-of-service violations before they ever occurred, rather than simply record hour-of-service data. It contained a series of checks and balances, preventive steps and automatic audits, in addition to the electronic log that was maintained by the on-board computer. The details of this system and the Frito-Lay, Inc. exemption are a matter of public record. Please see Attachment B for a detailed explanation of this system.

It is important to note that the BMCS responded in a manner that was prompt, prudent, thorough and helpful to our efforts to develop and implement the system at the first Frito-Lay facility.

Similar CADEC systems have been installed at other customer sites and have received BMCS exemptions. These sites involve truck fleets; no owner-operator is using an on-board computer to record electronic logs to the best of our knowledge. CADEC feels that the kind of electronic log system that is appropriate for a fleet with a central dispatching site may be cost-prohibitive for both the owner operator, and very small fleet.

There is an economic question, therefore, regarding what kind of system is appropriate for different size fleets. In other words,

when is an on-board computer, by itself, sufficient, and under what circumstances might an integrated system be appropriate?

An on-board computer, by itself, can address the problem of log falsification by maintaining the log electronically, and in a way that cannot be fraudulently altered by a driver (please refer to Attachment B). However, a driver can deliberately disconnect his on-board computer, or claim that it has malfunctioned if he chooses to violate the rules. For this reason, there is a definite advantage in maintaining a paper back-up system that can consist of computer generated logs for a prior seven day period that were produced at the central dispatch facility --in the case of the larger fleet, or paper logs generated every 24 hours in the cab of the vehicle by a printer attached to the on-board computer, in the case of the small trucking company or owner-operator who cannot afford the processing overhead at a central dispatch facility.

It's important to note that there is a difference between an electronic log recording device, and a comprehensive, proactive, integrated system that actively seeks to avoid hours-of-service violations. The electronic log that is maintained by an on-board computer, in connection with the electronically generated trip report, electronic dispatching based on available driver hours, and automatic, electronic auditing of every trip, can totally eliminate falsification of hours-of-service reporting, and can deter the actual violations, themselves.

We believe that either approach will reduce hours-of-service violations, and that if hour-of-service violations are effectively controlled, the incidence of driver fatigue will not disappear, but it will decrease dramatically. As a result of a decrease in driver fatigue, there should also be some decrease in related accidents.

(4) Substance Abuse. Abuse of controlled substances is a sociological problem that effects all facets of industry. We have been unable to identify any feasible way that an on-board computer can help to identify substance abuse, that does not infringe on civil liberties. However, substance abuse is often related to hours-of-service violations, because tired drivers use amphetamines. If hours-of-service violations can be decreased, some percentage of substance abuse will be eliminated.

(5)Chance Occurrences. There are an undefined number of possible, random occurrences a driver faces every day that can be neither predicted not controlled. The overall goal of on-board computer technology in controlling chance occurrences is to increase driver reaction time. Through the expanded use of sensor technology over time, this goal will be realized. For example, if road sensors are attached to an on-board computer and sense marginal pavement temperatures that could indicate road or bridge icing, the display and audible alarms of the on-board computer could alert the driver to this fact. Gradually, more safety-related sensors will be available with on-board computers to

provide early warning of potential hazards and increase driver reaction time.

In the five general categories just discussed, when the end result involves an accident, the on-board computer can be a useful, analytical tool. An on-board computer can provide a graphic snapshot of what happened just prior to the accident -- speeds, rate of decrease, shifting patterns.

We hope our comments today have been helpful and have given you a perspective on where on-board computer technology is today and the course of its future direction. We welcome the opportunity to provide additional information or to help in any other way we can.

Thank you.

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Statement of the
National Association of Regulatory Utility Commissioners

on

S.747 -- a Bill Proposing to establish a Motor Carrier Administration within the Department of Transportation, and

S.861 -- a Bill to Require Certain Actions by the Secretary of Transportation Regarding Certain Drivers, Motor Vehicles and Motor Carriers

* * *

This statement is submitted for the record to the Subcommittee on Surface Transportation of the Senate Committee on Commerce, Science, and Transportation on behalf of the National Association of Regulatory Utility Commissioners (NARUC).

The NARUC is a quasi-governmental, nonprofit organization founded in 1889. Within our membership are the governmental agencies of the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands, which are engaged in the regulation of utilities and motor carriers. Our chief objective is to serve the consumer interest by seeking to improve the quality and effectiveness of government regulation in America.

We greatly appreciate this opportunity to make our views known on these vital pieces of legislation which address three of the most critical issues affecting motor carrier safety.

The recent media attention and increased public awareness concerning the grave national problems associated with motor carrier safety send a clear message to us, the elected officials responsible for the general welfare of our Republic, that we must act to prevent the senseless waste and tragedy on our Nation's highways. As you are probably aware, heavy trucks are involved in approximately 400,000 accidents each year. Fatalities caused by truck crashes have increased steadily each year for the last four years and now approach 6,000 annually. Nearly 75% of these victims were the occupants of vehicles other than the motor carrier. USA Today reports that more people are killed annually in motor carrier accidents than in accidents involving planes, trains, busses, and boats combined!

The U.S. DOT confirms that there was a 24% increase in trucking accidents in the last two years for which figures are available. It has been estimated that as many as 250,000 people are injured in trucking accidents each year. All of this, this tragic epidemic of trucking disasters, occurred at the same time the rate of fatal accidents involving all motor vehicles has steadily declined to the lowest level in our Nation's history - 2.47 deaths per 100 million vehicle miles traveled, according to the 1985 FARS Annual Report.

A great deal of study has been devoted to the cause of this national hazard. R. Beilock, the author of one transportation study, recognizes the general issue of concern:

> "Particularly since the reduced economic regulation brought about by the Motor Carrier Act of 1980 (MCA), there has been widespread interest in the research community as well as in the media in uncovering any correlative trends between what has occurred economically as a result of deregulation and what has occurred in the truck safety arena."

I shall not debate this issue at this time but I must emphasize my belief that, regardless of our national policy on economic regulation of the trucking industry, we cannot afford, in terms of waste of capital resources or human life, to sacrifice our commitment to a strong, effective truck safety program on the national level.

Philip Haseltine, the Deputy Assistant Secretary for Policy and International Affairs in the Department of Transportation, revealed an interesting correlation between deregulation and trucking safety:

> "Trucking fatalities and reported accidents did increase, but with economic deregulation came a significant rise in trucking activity (vehicle miles traveled), and therefore, a greater exposure to risk. It was this increased exposure that resulted in greater accident and fatality levels during these years."

Indeed, motor carrier activity has increased. In 1980, there were 10,045 ICC regulated carriers. In 1985, that figure had increased to 33,283. John V. Curric, the Director of Safety for the American Trucking Association, reveals the awe inspiring magnitude and impact of the mammoth motor carrier industry:

The trucking industry employs 3.4 million drivers and 7.1 million employees overall. Over 31 million people representing almost 13% of the American population are directly dependent on breadwinners employed in some aspect of the trucking industry. More than 350,000 American firms operate trucks for hire, in addition to hundreds of thousands of private carriers. They log over 110 billion miles per year, transporting 80% of the dollar value of all freight carried in this country and 40% of the total freight tonnage in the United States. Annual revenues of the industry exceed 207 billion dollars, which translates to about 6% of the U.S. gross national product. In 1985, trucks paid 16 billion dollars in Federal and state taxes, which represents over 42% of the total taxes paid by all vehicles.

In hauling the more than 2 billion tons of freight, necessary to our essential existence and vital to our economy, to every community in the United States -- and, incidentally, 2/3's of all our communities depend entirely on motor carrier transportation for delivery of their goods -- some of these trucks are inevitably involved in accidents. Yet many could be prevented.

Currently, the Office of Motor Carrier Safety is a subdivision of the Federal Highway Administration which, in turn, is one of the four branches of the Department of Transportation. The OMCS, under the leadership of Dick Landis, valiantly struggles to supervise the safety of this teeming trucking industry to contain the carnage on our nation's roads. Tragically, the cold facts indicate that the current structure is unable to support the weighty demands placed upon it.

Recently, my fellow Tennessean, Robert Farris, Deputy Administrator of the Federal Highway Administration, outlined the program of the OMCS. With a meager staff of 440, this office is attempting to implement the wide range of Federal motor carrier safety programs - most of which were mandated by Congressional statute. These programs include the following:

Motor Carrier Safety Assistance Program - established in 1982 on the demand of Congress, this program disburses $50 million to the states annually for the assistance to the states in the expansion of their motor carrier safety and enforcement programs.

Safety Reviews - In an attempt to review the safety programs of the 185,000 unrated interstate or foreign motor carriers, this fiscal year the 356 field officers will attempt to conduct 26,000 safety reviews and 6,000 compliance reviews.

Commercial Drivers' License - Forced upon the FHWA last year, this mammoth undertaking was initiated with a rule and press release on July 1 of this year.

Information Systems - Three independent systems are being developed: Motor Carrier Safety Information Network (Safetynet); Commercial Driver's License Information System; and Motor Carrier Management Information System (MIS).

Regulations - In response to Congressional pressure, three dozen rulemaking activities are in progress.

Safety Regulatory Review Panel - Required by the Congress in 1984, this panel reviews and analyzes nearly 70,000 sections of state laws and regulations for their consistency with the Federal Regulations.

Truck Size and Weight - In addition to 11 separate rulemakings underway, the OMCS manages the designation of the 189,000 mile National Truck Network and issues size and weight standards for the entire interstate system.

Uniformity of State Taxation and Registration - The FHWA works with the National Governor's Association to simplify State regulations for motor carrier taxes and registration.

Research and Development - The agency is responsible for the disbursement of $2.3 million of research and development activities in fiscal year 1987.

With the difficulties of maintaining such an effort over this broad spectrum of activity, the importance of the role of this office in the Department of Transportation cannot be over-emphasized. We are most supportive of these programs and believe that it is time that Motor Carrier activities were elevated to the same position as those of rail and airlines within the DOT.

Because of the above-mentioned, in addition to those notable reasons so carefully delineated in Section I of the Bill, I strongly urge you to support S. 747 to create the Motor Carrier Administration within the DOT.

This action to further emphasize truck safety would not be undertaken without precedent. As early as 1982, the Congress realized that additional safety regulations were necessary and that additional enforcement personnel must be provided. Truck transportation was deemed essential to the economic wellbeing of this country, and thus it was imperative that highway safety be improved without encumbering commerce. The U.S. Congress enacted the Surface Transportation Assistance Act of 1982, which provided for State cooperation in a grant program to distribute the funds for the development and implementation of a nationwide enforcement program. Thus, the highly successful Motor Carrier Safety Assistance Program (MCSAP) was formed by Congress. This year the program expects to enable over one million roadside inspections to be conducted by the States. Furthermore, the projected growth of this cooperative effort will only enhance the implementation of a Federal policy.

In 1984, Congress passed the Motor Carrier Safety Act of 1984 to require the Secretary of Transportation to issue, within 12 months of enactment, new regulations regarding equipment in commercial vehicles, maintenance of safety equipment, safe loading guidelines, driving rules, physical qualifications of drivers, driver environment and its physical effect, uniformity of regulations between the states, inspection requirements and higher penalties for violations.

The small office of Motor Carrier Safety continues to

struggle to meet these Congressional mandates. Furthermore, included in the MCSA of 1984 was a requirement that the Secretary make a determination of safety fitness of each carrier. Increases in the number of Federal inspectors to carry out this order have been requested. Nearly 200,000 companies remain unrated.

The Commercial Motor Vehicle Safety Act of 1986 provides for even greater safety regulations. More funds have been allocated for inspection of vehicles by MSCAP participation and the program has been expanded to include safety audits at carrier facilities. Furthermore, the Commercial Vehicle Driver's License, which provides for a single driver's license with a unique identifier, will eliminate the common practice of spreading citations over a multiplicity of licenses to evade detection when a license is suspended or revoked. It also creates a much needed national informational system to facilitate the regulatory oversight within the various States.

The structure of this overburdened agency must be reformed to accommodate the performance that is demanded by the American people and by their elected representatives. We must send a clear message to our nation that we are committed to ensuring the most productive, most progressive, safest transportation system possible.

The passage of this landmark legislation is critical, and an additional, abhorrent hazard must be addressed immediately and without equivocation. This is the Commercial Zone Safety Exemption -- an onerous legal loophole which must be plugged. This exemption is defined in Section 390.16 of Title 49, Code of Federal Regulations:

> Exempt intracity operation - The term "exempt intracity operation" means a vehicle or driver used wholly within a municipality, or the commercial zone thereof, as declared by the Interstate Commerce Commission in Part 1048 of 49 CFR parts 1000 to 1199 revised as of October 1, 1975.

In addition, several States have laws which provide for similar exemptions. Senate Bill 861 addresses, in Part I, this antiquated provision within our safety rules at the Federal level. It should also be amended to eliminate conflicting State laws which would continue to impede the uniformity of enforcement of safety rules within our cities.

This much needed repeal legislation, if amended to remove similar State-imposed exemptions, would allow the responsible governmental agencies, both Federal and State, to impose and regulate safety standards for commercial motor carriers weighing over 10,000 pounds which operate within government-defined

commercial zones. These commercial zone exemptions were designed to coincide with urban areas and were established to relieve the economic regulatory burdens on local truck operations. They were later adopted by the Department of Transportation and applied to the safety regulation as well.

With few exceptions, motor carriers and drivers operating within such zones are exempt from all Federal and State safety requirements.

This lack of regulatory responsibility poses a deadly hazard in our urban areas and has often resulted in tragedy. The exemption permits trucking companies to dispatch unsafe vehicles, often operated by unqualified drivers, through the most densely populated regions with the most perilous traffic patterns in our nation. These vehicles may legally transport any commodity, including certain amounts of hazardous materials ranging from combustible petroleum products to radioactive materials, within our major urban areas and without any supervision whatsoever.

The potential for disaster is obvious, but preventable.

The threat is compounded by two factors. First, some unscrupulous companies may use this commercial exemption to extend the operational life of both trucks and drivers which no longer can meet the safety standards elsewhere. This "dumping" process is quite common, quite legal, and quite deadly.

Secondly, there is no State or Federal economic regulation of private carriers, those which haul their own property. A large number of these private carriers - dump trucks, delivery trucks, gasoline and construction vehicles, among others, exclusively operate within the commercial zone. We all have witnessed the horrible condition in which many of these vehicles are maintained. These trucks are tragedies waiting to happen.

The argument that compliance with Federal safety standards is an undue burden on intracity truck companies is ridiculous and should be rejected. Companies which cannot or will not meet minimum safety requirements should be prohibited from operating on our city streets as well as on our rural highways.

Finally, we must address the need for immediate action by the U.S. Congress to mandate the utilization of the advanced safety technology currently available to the motor carrier industry. The most immediate and important of this technology, an advance which would revolutionize trucking safety, is the on-board computerized monitoring device which records speed, driving time, and other vital information.

This equipment, listed in Section 4(A) of S. 861 would enable both State and Federal regulators, as well as company

managers, to monitor the operating practices of motor carrier drivers and to enforce driver compliance with the Federal and State safety regulations. The American Trucking Association estimates that 95% of the motor carrier accidents are caused by driver error. I am not convinced that this figure is not inflated, yet I am certain that driver error casualties are, by far, the greatest hazard on our highways.

The most significant impact of this equipment would be the ability to determine the operators' hours of service. AAA has asserted that driver fatigue is responsible for 41% of motor carrier accidents. Currently, it is most difficult to discover the actual compliance with the regulations governing this area. Officers must rely on log books provided by the driver. These records, commonly called "comic books", are often altered, or numerous books are maintained simultaneously. To verify the submitted evidence, regulators must turn to fuel receipts and invoices -- a very time consuming and expensive proposition. In Tennessee, nearly half the 4,500 safety citations issued during the first three months of 1987 were for log book violations. The on-board computer monitoring devices would provide an accurate display of the motor carriers hours of operation, records which could not be altered.

Economic benefits exist as well. Some studies claim that these devices can reduce fuel consumption by as much as 25% by providing managers with detailed information on the patterns of operation. Furthermore, Martin Albu, head of the Freight, Policy, and Rate Haulage Division in the United Kingdom Department of Transport, indicates that these devices, mandatory in Britain since 1980, not only ensure compliance with the EC regulation governing drivers' hours and rest provisions, but also provide a record of speeds. This record, although it may not be used as uncorroborated evidence in a court of law, may be used by the policeman traffic examiners as an indication that a vehicle has been speeding.

Advanced braking technology would allow drivers to respond to emergency situations with minimum breaking power and with the complete control over the vehicle. Equipment such as anti-lock breaks prevent lock-ups, lessen the chance of jackknifing and afford a greater amount of braking power to the motor carrier. With the average cost of a trucking rig averaging $100,000, the cost of this equipment does not place an undue burden on the industry and would undoubtedly be offset by the monetary and social advantage it presents.

We would suggest to you that, without your mandate, the DOT will not investigate the effectiveness of this equipment. Only a few months ago the DOT rejected without study a petition by the Insurance Institute For Highway Safety to require automatic on-board recording devices for motor carriers. No advance will

be made until required by you. Therefore, we would recommend that the language and intent expressed in Section 4 of S. 861 be altered to reflect this sentiment. At the very least, send the message to the DOT that it must investigate this equipment.

We respectfully urge you to support S. 861 and S.747. Thank you.

* * *

Respectfully submitted,

Keith Bissell, Commissioner
Tennessee Public Service
Commission,

Chairman, NARUC Committee on
Transportation

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